

**Religion and Politics in Revolutionary America:
Massachusetts and Virginia as Case Studies**

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I declare:

- (a) that this thesis has been composed by me
- (b) that this is my own work
- (c) that this work has not been submitted for any other degree

For my parents

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Introduction

This thesis explores the intersection of religion and politics in the early national period, from the drafting of the first state constitutions to the ratification of the Bill of Rights, focusing on the contrasting experience of Massachusetts and Virginia and the ratification of the Federal Constitution in these states, 1787-1788. These states have been selected as case studies in part because of their prominence and geographical diversity, but largely because of the very different church state models they present.

Political, economic and religious concerns played an important role in creating the crisis that led to the outbreak of the American Revolution. Since the 1960s, a great deal of research has been conducted into the religious origins of the American Revolution and the ways in which religious rhetoric was used to justify and promote the colonists' cause. Studies by Alan Heimert, William McLoughlin, Susan O'Brien and Harry S. Stout have revealed the nationalising, democratising and radicalising impact of the Great Awakening on American society and politics, while historians such as Nathan O. Hatch, Ruth H. Bloch, Michael Lienesch and James H. Smylie have detailed the ways in which millennial visions of a new Eden were linked to the colonists' campaign.¹ Most recently, Frank Lambert, David L.

¹ Alan Heimert, *Religion and the American Mind from the Great Awakening to the Revolution* (Cambridge, Mass.: Harvard University Press, 1966); William G. McLoughlin, 'The Role of Religion in the Revolution: Liberty of Conscience and Cultural Cohesion in the New Nation' in Stephen G. Kurtz and James H. Hutson (eds.), *Essays on the American Revolution* (Chapel Hill: North Carolina Press, 1973), 197-255; Susan O'Brien, 'A Transatlantic Community of Saints: The Great Awakening and the First Evangelical Network, 1735-1755', *American Historical Review*, 91 (1986), 811-832; Harry S. Stout, 'Religion, Communications and the Ideological Origins of the American Revolution', *William and Mary Quarterly*, Third Series, 34 (1977), 519-541; Nathan O. Hatch, *The Sacred Cause of Liberty: Republican Thought and the Millennium in Revolutionary New England* (New Haven; London: Yale University Press, 1977); Ruth H. Bloch, *Visionary Republic: Millennial Themes in American Thought, 1756-1800*

Holmes and Jon Meacham have focused on the religious beliefs of the Founding Fathers and their perspectives on church-state affairs.²

In the aftermath of declaring independence, Americans were forced not only to create a new political order, but also to consider the role of religion in that new order. In the state constitutions drafted at this time, Americans wrestled with questions of rights, the nature and limits of government power, representation and taxation but also the status of organised religion and its relationship with the civil magistrate. In the years leading up to the drafting of the Federal Constitution, Massachusetts and Virginia established very different religious settlements, examined in the first two chapters of this thesis. In Virginia, the drafting of the state constitution was only the first stage in settling the bounds of religious liberty. Building on the work of Thomas E. Buckley, I will trace the protracted and often contentious debate between members of the legislature, between the legislature and religious groups and between members of the established church and dissenters on the nature of the relationship between church and state in a revolutionary republic.³ In Massachusetts, drafters of the state constitution attempted to

(Cambridge: Cambridge University Press, 1985); Ruth H. Bloch, 'The Social and Political Base of Millennial Literature in Late Eighteenth-Century America', *American Quarterly*, 40 (1988), 378-396; Michael Lienesch, 'The Role of Political Millennialism in Early American Nationalism', *The Western Political Quarterly*, 36 (1983), 445-465; James H. Smylie, 'American Millennium Visions, 1776-1800', *Journal of Presbyterian History*, 77 (1999), 119-128.

² Frank Lambert, *The Founding Fathers and the Place of Religion in America* (Princeton: Princeton University Press, 2003); David L. Holmes, *The Faiths of the Founding Fathers* (New York; Oxford: Oxford University Press, 2006); Jon Meacham, *American Gospel: God, The Founding Fathers, and the Making of a Nation* (New York: Random House, 2006).

³ Thomas E. Buckley, S.J., *Church and State in Revolutionary Virginia, 1776-1787* (Charlottesville: University Press of Virginia, 1977).

reconcile its religious culture with revolutionary principles by supporting a public religion at the same time as providing a certain level of religious liberty. Unlike in Virginia, where the issue dragged on for ten years, the settlement created by the 1780 constitution established the nature of religious liberty and the relationship between religious societies and the civil magistrate into the nineteenth century. Though it had a similarly vibrant dissenting community, they were not able to make the political gains of their counterparts in Virginia. The presentation of a new, stronger federal government presented new challenges and opportunities for those with an interest in church state affairs. A consolidated, rather than a confederated, national government threatened to undermine government at state level and the provisions contained in the respective state constitutions. Debates over religious provision, religious tests and religious liberty in the federal ratification contest illuminated broader concerns about the relationship between state and federal government in the new nation, and contemporary perceptions of the specific role each level of government should be required to fulfil.

Previous analyses of the ratification debate in the United States have generally focused on a socio-economic analysis of the Federalists and Antifederalists or differences in their political theory. In the spirit of Charles Beard's approach to constitutional history, Jackson Turner Main argued that "the most significant fact" about the ratification contest was that it was "primarily a contest between the commercial and non-commercial elements

in the population".⁴ By contrast, Cecilia M. Kenyon rejects Beard's "limited perspective" in favour of an analysis that focuses on the ideological context of Constitutional debate and ratification.⁵ Contrary to Beard's assumptions, she argued that Anti-Federalists were not motivated by a democratic impulse to install majority rule in government, but rather their opposition to the Constitution was determined by concerns about the corruptibility of men and the viability of republican government across a heterogeneous territory.

There has been very little written on the religious aspects of the ratification debate in Massachusetts, Virginia or the United States in general. Owen S. Ireland has addressed ethno-religious political divisions in post-Revolutionary Pennsylvania, but does not detail explicitly religious disputes or explore the political motivation of religious figures.⁶ Stephen A. Marini has demonstrated a link between evangelicals and Antifederalism in some areas, but his essay is a very general introduction to religion and politics at this time.⁷ Aside from these two studies, Isaac Kramnick has discussed the use of secularised religious rhetoric at the Constitutional Convention, Saul Cornell makes passing reference to elite support for religious tests for public office and Steven Boyd has commented on noteworthy examples of religious denominations voting consciously as a group in certain counties during

⁴ Charles Beard, *An Economic Interpretation of the Constitution* (New York, 1913); Jackson Turner Main, *The Antifederalists: Critics of the Constitution, 1781-1788* (Chapel Hill: University of North Carolina Press, 1961).

⁵ Cecilia M. Kenyon, 'Men of Little Faith: The Antifederalists on the Nature of Representative Government', *The William and Mary Quarterly*, Third Series, 12 (1955), 3-13.

⁶ Owen S. Ireland, *Religion, Ethnicity and Politics: Ratifying the Constitution in Pennsylvania* (University Park, PA: Pennsylvania State University Press, 1995).

⁷ Stephen A. Marini, 'Religion, Politics and Ratification' in Ronald Hoffman and Peter Albert (eds.), *Religion in a Revolutionary Age* (Charlottesville: University Press of Virginia, 1994), 184-217.

ratification and the first federal elections.⁸ However, in all these examples, religious questions are subordinate to the larger focus. Most studies addressing the significance of religion have generally focused on the controversy surrounding religious tests.⁹

This thesis serves two purposes. First, it continues the research conducted into the role of religion in the Revolutionary Era. Instead of turning attention to the impact of politics on religion after independence, my thesis will explore the continued vitality of religious expression in political discourse and the development of religious themes in American political thought, as Americans made the transition from rebellious colonists to independent citizens. Given the well-documented religiosity of the American people, it is unsurprising that religious rhetoric remained a popular and effective means of expressing political support or opposition. Second, my research examines contemporary debates about church-state issues at state level, where the most significant and interesting discussions were taking place. Most studies of the ratification process discuss Anti-Federalists and Federalists in general,

⁸ Isaac Kramnick, "'The Great National Discussion': The Discourse of Politics in 1787", *William and Mary Quarterly*, Third Series, 45 (1988), 3-32; Steven R. Boyd, *The Politics of Opposition: Antifederalists and the Acceptance of the Constitution* (New York: KTO Press, 1979); Saul Cornell, *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788-1832* (Chapel Hill: University of North Carolina Press, 1999).

⁹ See Daniel L. Dreisbach, 'The Constitution's Forgotten Religious Clause: Reflections on the Article VI Religious Test Ban', *Journal of Church and State*, 38 (1996), 261-295; Edwin S. Gaustad, 'Religious Tests, Constitutions and 'Christian Nation'' in Hoffman and Albert (eds.), *Religion in a Revolutionary Age*, 218-235; Isaac Kramnick and R. Laurence Moore, *The Godless Constitution: The Case Against Religious Correctness* (New York; London: W.W. Norton & Co., 1996); James E. Wood, "'No Religious Test Shall Ever Be Required': Reflections on the Bicentennial of the U.S. Constitution', *Journal of Church and State*, 29 (1987), 199-208; James E. Wood, 'Public Religion vis à vis the Prophetic Role of Religion', *Journal of Church and State*, 41 (1999), 51-75.

with little reference to the local context in which statements or arguments were made. By addressing concerns about the protection of religious liberty and the appropriate level of government support for religious education and provision in two of the most prominent states of the new union, it is hoped a rather different picture of this turbulent period will emerge.

The Religious Settlement in the States

“All men are equally entitled to the free exercise of religion”:

Church and State in Virginia, 1776-1787

It did not take long for the members of the fifth Virginia Convention, assembled on May 6, 1776, to take radical action in order to further the cause of revolution in Virginia. Within one day, the members who sat in the House of Burgesses had permanently dissolved the colonial legislature and, within nine days, they had passed a resolution instructing Virginia's delegation to the Continental Congress to petition for independence. On that same day, prompted by the request of the national assembly to form a new state government, they created a committee to draft a new constitution and bill of rights. Chaired by Archibald Cary, the committee counted Patrick Henry, James Madison, George Mason, Robert Carter Nicholas and Edmund Randolph as members. Like their counterparts in Massachusetts, the framers opted not simply to rework their colonial charter, but to create a new frame of government which would express their understanding of the Revolution and its meaning in their country.

The principal author of both the Virginia Constitution and the Declaration of Rights was Mason, a planter from Fairfax County. Though he had received little formal schooling, he was well read, having made the most of his uncle's extensive library.¹ Thomas Jefferson described him as “a man of the first order of wisdom among those who acted on the theatre of revolution, of expansive mind, profound judgment, cogent in argument, learned in the love of our former constitution, and earnest for the republican

¹ Helen Hill Miller, *George Mason: Gentleman Revolutionary* (Chapel Hill: University of North Carolina Press, 1975), 30-32.

change on democratic principles".² Like most Virginians, Mason was an Anglican and, like many members of the gentry, he held office within his parish. An active churchman, he had been elected to the vestry of Truro Parish in 1749 and served four separate terms as a church warden.³ In his words and deeds, he appears to have been relatively orthodox in his religious convictions; Alf J. Mapp, Jr. describes his outlook as "essentially Christian".⁴ He was neither sceptical, nor overtly pious: in the opening paragraph of his will, he declared the resignation of his soul "into the hands of my Almighty Creator, whose tender mercy's are all over his works, who hatheth nothing that he hath made, and to the Justice and Wisdom of whose Dispensations I willingly and cheerfully submit humbly hoping from his unbounded mercy and benevolence, thro the Merits of my blessed Savior, a remission of my sins [sic]".⁵

Mason quickly assumed the lead in drafting a new constitution for Virginia, having dismissed most of the other committee members as "useless".⁶ Turning his attention first to the composition of a declaration of rights as the "Basis and Foundation of Government", he listed ten points: the freedom and equality of all men and their natural right to life, liberty, property and happiness; the accountability of government to the people; the right of the majority to change their government; the prohibition of hereditary privileges; the separation of powers in government and the

² Thomas Jefferson, *The Autobiography of Thomas Jefferson, 1743-1790*, ed. Paul Leicester Ford (Philadelphia: University of Pennsylvania Press, 2005), 65.

³ He was a vestryman until 1785. See Jeff Broadwater, *George Mason: Forgotten Founder* (Chapel Hill: University of North Carolina Press, 2006), 10.

⁴ Alf J. Mapp, Jr., *The Faiths of our Fathers* (Lanham; Oxford: Rowman and Littlefield, 2003), 114.

⁵ 'Last Will and Testament, 20 March 1773' in George Mason, *The Papers of George Mason, 1725-1792*, Vol. I, ed. Robert A. Rutland, (Chapel Hill: University of North Carolina Press, 1970), 147.

⁶ 'George Mason to Richard Henry Lee, May 18, 1787', in Mason, *Papers*, Vol. I, 271.

guarantee of regular elections; the consensual compact between the people and their government; the right to a jury and speedy trial in criminal cases; the importance of "Justice, Moderation, Temperance, Frugality, and Virtue", in maintaining liberty and a free government; the necessity of religious toleration; and the sacredness of trial by jury in civil cases. The ninth article, relating to religious toleration, declared:

That as Religion, or the Duty to which we owe to our divine and omnipotent Creator, and the Manner of discharging it, can be governed only by Reason and Conviction, not by Force or Violence; and therefore that all Men shou'd enjoy the fullest Toleration in the Exercise of Religion, according to the Dictates of Conscience, unpunished and unrestrained by the Magistrate, unless, under Colour of Religion, any Man disturb the Peace, the Happiness, or Safety or Society, or of Individuals. And that it is the mutual Duty of all, to practice Christian Forbearance, Love and Charity towards Each other.⁷

Mason's Declaration may have been drafted with the intention of creating a new order in Virginia, but this article did little more than maintain the existing religious settlement. The Church of Virginia was the established church, and had been since 1606.⁸ The government regulated the administrative affairs of the Church and the religious affairs of the people.

Vestries and clergymen requested advice and permission from the legislature

⁷ 'First Draft of the Virginia Declaration of Rights, 20-26 May, 1776' in Mason, *Papers*, Vol. I, 276-278.

⁸ In 1606, James I stipulated that religious practices in Virginia should conform "to the doctrine, rights, and religion now professed and established within our realm in England". See 'Articles, Instructions and Orders made, sett down and established by us, twentieth day of November, in the year of raigne of England, France, and Ireland, the fourth and of Scotland the fortieth, for the good Order and Government of the two several Colonies and Plantations to be made by our loving subjects, in the Country commonly called Virginia and America, between thirty-four and forty-five degrees from the equinoctial line' in *The Statutes at Large: Being a Collection of all the Laws of Virginia, From the First Session of the Legislature in the Year 1619*, Vol. I, ed. William Waller Hening (Charlottesville, VA: The Jamestown Foundation of the Commonwealth of Virginia by the University Press of Virginia, 1969), 68-69. The charter of 1609 reaffirmed this instruction and required all immigrants take the Oath of Supremacy, which acknowledged the British monarch as the head of the Church of England. See 'The Second Charter to the Treasurer and Company, for Virginia, erecting them into a Corporation and Body Politic, and for the further enlargement and explanation of the privileges of the said Company and First Colony of Virginia', in *Statutes at Large*, Vol. I, ed. Henning, 95-96, 97-98. William H. Seiler, 'The Church of England as the Established Church in Seventeenth-Century Virginia', *Journal of Southern History*, 15 (1949), 480.

on official matters, and parishioners petitioned the assembly with requests to alter parish boundaries and settle vestry disputes.⁹ Every Virginian was a parishioner and therefore every household was obliged to pay taxes in support of the Church.¹⁰ The Toleration Act of 1689 had excused Trinitarian Nonconformists from worshipping at an Anglican church, but they were still required to obtain a licence for their religious assemblies, on condition that they had a minister and meeting place.¹¹ Dissenting clergymen who preached without a licence were often subject to harassment from the civil authorities and imprisonment. All other adult Virginians were legally obliged to attend their local parish church at least one Sunday a month, on penalty of a fine.¹² Given the size of the parishes and the scattered nature of settlement in Virginia, this legislation was largely unenforceable; but grand juries in counties across Virginia did regularly prosecute nonchurchgoers up to and through the Revolution, albeit in relatively small numbers.¹³ In stipulating that “all Men shou’d enjoy the fullest Toleration in the Exercise of Religion”,

⁹ Raymond C. Bailey, ‘Popular Petitions and Religion in Eighteenth-Century Colonial Virginia’, *Historical Magazine of the Protestant Episcopal Church*, 44 (1977), 421.

¹⁰ John K. Nelson, *A Blessed Company: Parishes, Parsons and Parishioners in Anglican Virginia* (Chapel Hill: University of North Carolina Press, 2001), 286.

¹¹ Quakers required only a meeting place.

¹² Nelson, *A Blessed Company*, 244. Legislation passed in 1661 required every Virginian to attend weekly Sunday worship. Quakers and other “recusants” were obliged to attend monthly. See ‘Act IX: Sundays not to bee profaned’, in *Statutes at Large*, Vol. II, ed. Hening, 48. Legislation passed in 1705 required every Virginian over the age of twenty-one to attend Sunday worship at their parish church at least once every month. See ‘An Act for the effectual suppression of vice, and restraint and punishment of blasphemous, wicked, and dissolute persons’, in *Statutes at Large*, Vol. III, ed. Hening, 360. After the requirement was relaxed to once every two months in the early eighteenth century, it was restored to once every month in 1744. See ‘An Act, to explain and amend an Act, intituled, and Act for the effectual suppression of vice, and restraint and punishment of wicked, blasphemous, and dissolute persons’, in *Statutes at Large*, Vol. V, ed. Hening, 226.

¹³ In an analysis of county court sessions, Nelson finds that between 1700 and 1775, an average of eight or nine people were presented each year for failing to regularly attend their parish church in Northumberland County. In Richmond County, it was an average of seven; in Essex County, an average of nine; in Princess Anne County, an average of seven or eight. Almost every county, for which records are available, prosecuted nonchurchgoers, but the greatest proportions were in the counties of the Tidewater region. Piedmont and Mountain counties persecuted sporadically. See Nelson, *A Blessed Company*, 245-247.

Mason's article offered little, if anything, in the way of revision with regards to the church-state situation in Virginia; it was, rather, merely a restatement of the principles behind the 1689 Act.¹⁴ Though grounded in Locke, Mason's conception of religious toleration did not extend as far as that of the English philosopher; his proviso empowered the civil government to restrict religious practices if they disturbed individuals or the general society.¹⁵ In Mason's Virginia, citizens would be free to worship according to the dictates of their conscience, but the Church of Virginia would retain its privileged position and the magistrate would continue to exercise its authority over the private religious affairs of the people.

The committee accepted Mason's draft in essence, but made a few changes.¹⁶ They deleted his overtly religious references and strengthened the provision for liberty of conscience. In the second article, the committee removed Mason's reference to God; in the article on religious toleration, they shortened "divine and omnipotent Creator" to 'Our Creator' and removed the words "or of Individuals" in the penultimate sentence so that religious liberty could only be curtailed if a citizen's activities threatened society at large.¹⁷ Their draft therefore read:

That religion, or the duty which we owe our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate unless, under colour of religion, any man disturb the peace, the happiness, or safety of

¹⁴ Broadwater, *George Mason*, 85.

¹⁵ Irving Brant, *James Madison*, Vol. I: *The Virginia Revolutionist* (Indianapolis; New York: Bobbs-Merrill, 1941), 244.

¹⁶ Thomas Ludwell Lee added two further articles to Mason's draft (on liberty of the press and the prohibition of ex post facto laws) before it was sent to the committee for approval.

¹⁷ 'Committee Draft of the Virginia Declaration of Rights' 27 May, 1776' in Mason, *Papers*, Vol. I, 284-285.

society. And that it is the mutual duty of all to practice Christian forbearance, love and charity, towards each other.¹⁸

Having revised Mason's draft, the committee passed the Declaration to the Convention for approval on 27 May. When the members of the Convention began debating the draft, three areas of controversy emerged: first, the problem of declaring that "all men are born equally free and independent" in a slaveholding republic; second, the prohibition of ex post facto laws, and third, the offer of religious toleration, rather than religious liberty.¹⁹ The first two issues were solved with relative haste; the third sparked a debate that would not be settled for a further ten years.

Madison was unhappy with the wording of the article on religious toleration and proposed "the free exercise of religion" instead of "the fullest toleration", along with the abolition of rewards or penalties based on religious affiliation, so that the article read:

That Religion or the duty we owe our Creator, and the manner of discharging it, being under the direction of reason and conviction only, not of violence or compulsion, all men are equally entitled to the full and free exercise of it according to the dictates of Conscience; and therefore that no man or class of men ought, on account of religion to be invested with peculiar emoluments or privileges; nor subjected to any penalties or disabilities unless under &c.²⁰

Madison understood the limitations of Mason's draft and viewed the Declaration of Rights as an opportunity to make more radical changes to the laws of Virginia and the liberties of its people. He had been pondering the

¹⁸ Ibid.

¹⁹ Broadwater, *George Mason*, 84-85.

²⁰ 'Madison's Amendments to the Declaration of Rights' in James Madison, *The Papers of James Madison*, Vol. I, eds. William T. Hutchison and William M. E. Rachal (Chicago; London: University of Chicago Press, 1962), 174. The "&c" indicates Madison's intention to add the remainder of the Committee's draft ("colour of religion, any man disturb the peace, the happiness, of safety of society. And that it is the mutual duty of all to practice Christian forbearance, love and charity, toward each other") to his own. See Madison, *Papers*, Vol. I, 179.

necessity of compulsion in religious affairs for years, but, since returning from the College of New Jersey, he had witnessed the persecution of dissenters at close hand and it troubled him greatly. In January 1774, he described the “diabolical Hell” of victimisation in a letter to William Bradford, a friend from college, and condemned the clergy who “furnish[ed] their Quota of Imps for such business”. It “vexe[d] him the most of any thing whatever”.²¹ Nine weeks later, when the House of Burgesses was due to meet and discuss the religious situation in the colony, he expressed his doubt and frustration at the potential for progress in this area. Comparing the temper in Virginia with Bradford’s Pennsylvania, he declared that the “liberal catholic and equitable way of thinking as to the rights of Conscience, which is one of the Characteristics of a free people and so strongly marks the People of your province is but little known among the Zealous adherents to our Hierarchy”. Some members of the House did hold liberal opinions on politics and religion, but they were outnumbered by those committed to the religious establishment and undermined in their efforts both by “incredible and extravagant stories” about the “monstrous effects of the Enthusiasm prevalent among the Sectaries”, and the powerful influence of the Anglican clergy who would “naturally employ all their art & Interest to depress their rising Adversaries”. These proponents of a religious establishment not only bred fear and animosity amongst the legislators; Madison believed that their resistance to extending religious liberty hampered the commercial and intellectual development of Virginia because it discouraged immigration and thwarted the growth of “Industry and Virtue”.²² Restricting religious

²¹ ‘James Madison to William Bradford, January 24, 1777’ in Madison, *Papers*, Vol. I, 106.

²² ‘James Madison to William Bradford, April 1, 1774’ in Madison, *Papers*, Vol. I, 112-113.

freedom was therefore as injurious to adherents of the established church as it was to dissenters; in assuming the authority to determine the truth in religious belief and practice, and legislate accordingly, the magistrate restrained and weakened the minds of the people thereby making them ill-suited for entrepreneurial and philanthropic endeavours that would contribute to the general good. In Madison's mind, Virginians would never be truly free and Virginia would never properly progress until religion was removed from the legislative purview of government. He therefore opposed maintaining the policy of religious toleration and the privileges accorded to the established church and its members, proposing instead to enshrine religious liberty in the Declaration of Rights for the newly independent republic.

Madison's draft went far beyond the earlier drafts in protecting the liberties of Virginians. Religious toleration, as maintained in Mason's and the Committee's Declaration, was granted by the civil government and, as such, could technically be withdrawn at any time; it was a statement of sovereignty over religious affairs and matters of conscience. By contrast, the free exercise of religion, as proposed by Madison, was a natural right. It was entirely removed from the authority of the magistrate; the legislature would be constitutionally prevented from interfering with activities that grew out of liberty of conscience.²³ Furthermore, the equalising of all clergymen and church members before the law as a result of abolishing the system of civil privileges and financial rewards would have effectively disestablished the Church of Virginia. If Madison's draft had been accepted, it would have radically and fundamentally altered the church-state settlement in Virginia.

²³ Buckley, *Church and State in Revolutionary Virginia*, 18; Brant, *James Madison*, Vol. I, 246.

Madison knew this and, as both a junior member of the Convention and a reluctant speaker, he asked Patrick Henry to introduce his amendment. As a respected figure in Virginian politics, known for his willingness to take up cases that challenged the privileges of the established church, Henry was an ideal choice. Members of the Convention who were committed to the religious establishment however, recognised Madison's ambitions and thwarted the proposal. When Henry was asked if the amendment was designed to disestablish the Church of Virginia, he denied the intention and the proposal was dropped.²⁴

Unwilling to let the issue drop entirely, Madison revised his amendment, and passed it to Edmund Pendleton for submission to the Convention. Knowing that his aspiration to separate church and state had defeated his first proposal, he omitted any reference to the abolition of "emoluments and privileges" that threatened the constitutional status of the Church of Virginia and replaced "violence or compulsion" with the original "force and violence" when considering the regulation of religious observance, thus ceding the civil authorities some control over religious practices in Virginia.²⁵ However, on balance, he maintained the provision for the free exercise of religion over mere toleration and further restricted the conditions under which religious liberty could be curbed. The Committee had suggested a threat to "the peace, the happiness, or safety of society", but

²⁴ Edmund Randolph, *History of Virginia* (Charlottesville, VA: University Press of Virginia for Virginia Historical Society, 1970), 254; Madison, *Papers*, Vol. I, 171; Broadwater, *George Mason*, 85.

²⁵ Brant, *James Madison*, Vol. I, 246.

Madison limited this to occasions when the security of the polity was at risk.²⁶ His second proposal thus read:

That religion, or the duty which we owe to our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore, that all men are equally entitled to enjoy the free exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate, Unless the preservation of equal liberty and the existence of the State are manifestly endangered. And that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.²⁷

Unlike Henry, who was known for his dissenting sympathies, Pendleton was an influential, conservative Anglican and his presentation of Madison's amendment therefore carried more weight with the Convention, particularly among its more traditional members who opposed any substantial revision of the existing church-state settlement. Though Henry was a respected figure, they knew that Pendleton would be unlikely to support any measure that threatened the status of the Church in Virginia. In debating Madison's proposal, the members strengthened the provision protecting religious liberty by removing his condition for limiting its free exercise. The final article thus read:

That religion, or the duty to which we owe our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other.²⁸

Though Mason later declared that his draft Declaration "received few Alterations" when it was presented to the Convention, his article protecting religious toleration was substantially different in provision to the article

²⁶ Ibid; Broadwater, *George Mason*, 86.

²⁷ 'Madison's Amendments to the Declaration of Rights' in Madison, *Papers*, Vol. I, 174-175.

²⁸ 'Article on Religion Adopted by the Convention' in Madison, *Papers*, Vol. I, 175.

approved and adopted by the members weeks later.²⁹ It enshrined the freedom to worship God as determined by religious conviction as a natural right rather than a legislative concession. It denied the civil magistrate the authority to interfere with the private religious affairs of citizens, regardless of their consequences for other individuals or society in general. Like Mason's original draft, it did not disestablish the Church of Virginia; however, the philosophical and practical implications of Madison's provision for "free exercise of religion" raised difficult questions about reconciling full religious liberty with the demands of maintaining an established church that would not have arisen from the original proposal. In a republic that protected religious liberty, it was incongruous to sustain a religious establishment that privileged members of one church over another; freedom and discrimination did not sit easily with one another.³⁰ Though members of the Convention did not grasp the inconsistency of their position, Madison certainly did. In 1776, he was willing to sacrifice the immediate disestablishment of the Church in order to secure the rights of consciences, rather than governments, to dictate religious practices.

The Declaration of Rights was formally adopted by the Convention on June 12, 1776; it was not submitted to the people of Virginia or their representatives in local government for approval. The rights that would serve as the foundation of government in the Old Dominion were determined by the members of the Convention. Their vision for the new republican order was the only vision permitted at this stage, but the controversy surrounding the nature of the liberties enshrined in the

²⁹ 'George Mason to [Brent?]' in Mason, *Papers*, Vol.I, 434.

³⁰ Buckley, *Church and State*, 18.

Declaration did not dissipate with its adoption. Dissenters and other Virginians eager to reform the magistrate's relationship with the Church saw the sixteenth article as only a first step in their ambition to reform the church-state settlement in Virginia. Over the next ten years, conservatives would battle evangelicals and rationalists to define the place of religion in a revolutionary republic.

Work on the new constitution for Virginia began while the Convention was still considering the final draft of the Declaration of Rights. Once again, Mason was the prime architect of the final document, but he was not the only Virginian, indeed the only American, to take an active interest in framing a new plan of government. John Adams had sent Richard Henry Lee both an outline draft for a frame of government and an essay expounding on the subject; Lee had developed then published the first and circulated the second to his colleagues in the Convention.³¹ Carter Braxton produced a plan modelled on the British system that was roundly dismissed by those in the Convention and Jefferson, eager to participate in the critical deliberations but obliged to remain in Philadelphia, drafted three separate frames of government which he sent to George Wythe in Williamsburg; unfortunately, they did not reach the Convention in time to be seriously considered.³² Very little of Jefferson's work was included in the final constitution and not one of his articles relating to religion was incorporated into the constitution, in part

³¹ Broadwater, *George Mason*, 91; John E. Selby, *The Revolution in Virginia, 1775-1783* (Williamsburg: Colonial Williamsburg Foundation, 1989), 112-114.

³² R. B. Bernstein, *Thomas Jefferson* (Oxford; New York: Oxford University Press, 2003), 37.

because the Declaration of Rights had already determined the nature and extent of religious liberty.³³ In each of his drafts, he had proposed a declaration that every person would have “full and free liberty of religious opinion” and would not be “compelled to frequent or maintain any religious institution”; in other words, citizens would not be required to attend Sunday worship at a local church or pay taxes in support of any religious organisation.³⁴ Like Madison, he viewed legislative compulsion as detrimental to the security and sanctity of religious liberty as force or violence. Unsurprisingly, he did not provide a religious test for officeholders, but he did stipulate an “oath of fidelity to the state” for all officials, including those in the Church. He also recommended that a jury settle all ecclesiastical legal disputes, as in civil and criminal cases. Given these provisions, it seems clear that Jefferson did not, at this point, envisage an ecclesiastical system entirely separate from the political framework; he did not, unlike Madison, intend to disestablish the Church of Virginia in July 1776.³⁵ The creation of a voluntary system of support would, along with the magistrate’s inability to regulate religious convictions, free citizens from their obligations to the religious establishment. However, under any one of his proposed

³³ The Convention included Jefferson’s preamble in their final draft.

³⁴ He qualified this protection in the first two drafts by asserting that seditious behaviour or preaching would be punished.

³⁵ D. R. Anderson argues that Jefferson’s draft “in its essential features was not a contrast with his later ideas, but the charter of the fundamental reforms for which the author of the Declaration of Independence and the Bill for Religious Freedom fought until his death”, but it seems evident that, in religious matters at least, Jefferson’s constitution was relatively conservative in comparison with the position he espoused in later legislative proposals. See D. R. Anderson, ‘Jefferson and the Virginia Constitution’, *American Historical Review*, 21 (1916), 6.

constitutions, the Church would maintain some responsibility to the state; it was as much an official part of the polity as the government and army.³⁶

The final draft of the constitution was approved on June 29, 1776. Jefferson had challenged the authority of the Convention to draft and adopt a new frame of government for Virginia, arguing that another body should be assembled for that purpose so that the decisions made by the Convention could not simply be overturned by another legislature in a later session.³⁷ As before with the Declaration of Rights, the constitution was not submitted for popular ratification. Henry, Mason and Pendleton argued that since elections for the fifth Convention had been dominated by the issue of independence, the electors would expect their representatives to use their time in office to create a new system of government for Virginia.³⁸

The adopted constitution was almost entirely silent on the issue of religion, in large part because the Revolutionary church-state settlement had supposedly been settled in the Declaration of Rights: citizens would be free to practise their religion, but the Church of Virginia would remain the established church. While the civil magistrate continued to legislate in regard to the affairs of the Church, religion would not be allowed to interfere in government. In a groundbreaking step, the Convention decided not to include a religious test for officeholders and, in revising Mason's draft, barred the clergy of any denomination from taking seats in the legislature or Privy Council.³⁹ Together, the Declaration of Rights and the constitution

³⁶ 'The Virginia Constitution: First Draft by Jefferson; Second Draft by Jefferson; Third Draft by Jefferson' in Jefferson, *Papers*, Vol. I, 337-64.

³⁷ Randolph, *History of Virginia*, 251-52.

³⁸ Selby, *Revolution in Virginia*, 111.

³⁹ Robert A. Rutland suggests that this latter measure reflected the delegates' uneasiness over the Parsons Cause affair, but since no Convention journal exists, it is almost impossible to accurately determine the motives behind the article. See Mason, *Papers*, Vol. I, 310.

established the new Virginia republic as an erastian state. Religious bodies and their personnel would remain under the authority of the government and institutional religion was denied a position of influence in the political sphere. The delegates' attitude towards the legislature's relationship with the Church is neatly illustrated in their decision to revise its liturgy in the final days of the Convention. All references to the King and his family were removed from the Book of Common Prayer and replaced with prayers for the civil magistrates; as Thomas Buckley argues, "[n]o clearer indication is needed that these men continued to regard themselves as the legislative body for the church".⁴⁰ The communion prayer, which had previously acknowledged the authority of George III, now declared:

Almighty and everlasting God, we are taught by thy holy word that the hearts of all rulers are in thy governance, and that thou dost dispose and turn them as it seemeth best to thy godly wisdom, we humbly beseech thee so to dispose and govern the hearts of all the magistrates of this commonwealth, that in all their thoughts, words, and works they may evermore seek thy honour and glory, and study to preserve thy people committed to their charge, in wealth, peace and godliness. Grant this, O merciful father for thy dear son's sake, Jesus Christ, our Lord. Amen.⁴¹

When the House of Delegates assembled for its first session, one of its first orders of business was the creation of a Committee of Religion to consider the details of the church-state settlement and respond to the petitions of various congregations and religious bodies. The Speaker of the House, Edmund Pendleton, appointed eighteen members to the committee;

⁴⁰ Buckley, *Church and State*, 21.

⁴¹ *Virginia Gazette* (Dixon and Hunter, July 20, 1776).

including Thomas Jefferson, who had recently returned to Virginia from Philadelphia, Robert Carter Nicholas and Carter Braxton, who was chosen as chair.⁴² Patrick Henry, Madison's sponsor from the last session of the Convention, had been elected governor and was therefore no longer able to participate in the legislative debate. The church-state question seemed to have been settled in the Convention's careful negotiations over the phrasing of the Declaration of Rights, but in reality the members had done little more than lay the groundwork for a public contest over the nature and the extent of the religious establishment in Virginia. The committee were given little opportunity to ease into their role: on the day of appointment, the House received a petition from dissenters in the Presbyterian stronghold of Prince Edward County commending the work of the Convention in releasing the people of Virginia from their "long Night of ecclesiastical Bondage" and requesting that members of the House complete the work undertaken by their predecessors by disestablishing the Church of Virginia.⁴³ Like Madison, these petitioners recognised the inconsistency of the position adopted by the Convention in enshrining religious liberty while maintaining a state church and were keen to exploit this weakness to realise their objective of disestablishment. They were not alone in their efforts to clarify the meaning of the Revolutionary religious settlement for their own ends; in the weeks that followed, the House received a flood of petitions from dissenters, many of who were seemingly prompted by the ambiguous work of the

⁴² A full list of the original committee members can be found in *Journal of the House of Delegates of Virginia. Anno Domini 1776* (Williamsburg: Purdie, 1776) (Evans 15204), 9. During the course of the legislative session, new members were added to the Committee.

⁴³ Buckley, *Church and State*, 21-22; Prince Edward County, 11 October 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); *Journal of the House of Delegates. Anno Domini 1776*, (Williamsburg: Purdie, 1776) (Evans 15204), 9.

Convention.⁴⁴ The numbers of dissenters in Virginia had been growing steadily since the Great Awakening in the mid-eighteenth century and, though they almost certainly did not form a majority of the population, as Jefferson later claimed, they were fast becoming a formidable political force. However, this did not translate into legislative power: most of the assembly were members of the established church and a disproportionate number resided in the Tidewater area, a region with a relatively small numbers of dissenters.⁴⁵ Most of the petitions submitted to the House in 1776 came from areas outwith the Tidewater.⁴⁶

A petition signed by “10,000 Freemen” declared that the Declaration of Rights had “raised and confirmed” hopes that dissenters might be allowed to enjoy their birthright of “Equal Liberty”. The petitioners therefore requested an end to both a system of taxation that unfairly deprived them of their property and the interference of the legislature in religious affairs: only when every denomination was placed on the same legal footing could the “Christian forbearance, love and charity”, referred to in the sixteenth article, be enjoyed in Virginia.⁴⁷ This petition was followed by others from

⁴⁴ The House continued to receive petitions relating to the regulation of the Church affairs and ongoing ecclesiastical or sectarian disputes. See Dunmore County, 16 October 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting a compulsory tax on Quakers and Mennonites in lieu of military service; Amherst County, 21 October 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting the dissolution of the parish vestry on grounds of poor conduct; Richmond County, 22 October 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting the dissolution of the parish vestry on grounds of oppressive behaviour; Culpeper County, 22 October 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition from a German Lutheran congregation requesting exemption from local parochial taxes and the appointment of their own minister.

⁴⁵ Jefferson, *Autobiography*, 63; Randolph, *History*, 264.

⁴⁶ Selby, *The Revolution in Virginia*, 145.

⁴⁷ Miscellaneous, October 16, 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

Albemarle, Amherst and Buckingham counties and on October 24, one from the Presbytery of Hanover on behalf of all Presbyterian congregations in Virginia. The petitioners began their Memorial by outlining the “peaceable” conduct of dissenters who had, for years, “submitted to several ecclesiastical burdens and restrictions”, though they ran contrary to the principle of equal liberty. Then, in a tactic that would be repeatedly employed by dissenters in both Virginia and Massachusetts, they grounded their complaint in the context of “casting off the yoke of tyranny” that had plagued the people before independence. They flattered themselves that the new republican governments would be founded on “equitable and liberal” principles; a conviction that was seemingly verified with the passage of the Virginia Declaration of Rights, “the Magna Carta of our Commonwealth”. Employing the words of the Declaration, they petitioned security for the “free exercise of Religion, according to the dictates of our Consciences” and relief from religious grievances implemented by the legislature. Though the petition was prompted by particular concerns about the financial and ecclesiastical injustices of the religious establishment for dissenters in Virginia, the Presbytery were careful to note their broader patriotic, religious and political objections to the principle of a religious establishment, a system that they believed was “highly injurious to the temporal interests of any Community”. First, a religious establishment threatened Virginia’s commercial development, undermined its political status and compromised its independence. Echoing Madison’s earlier comments in a letter to Bradford, the petitioners argued that the oppressive nature of an establishment impeded immigration and greatly inhibited the progress of “Arts, Sciences

and Manufacturers" in Virginia; indeed, they speculated that it had prevented the Commonwealth from assuming the title of America's capital and forced its leaders to seek assistance from other states in defending itself against the British army. Second, a religious establishment had no biblical foundation. They argued that Jesus relinquished the support of the civil authorities when he declared that His Kingdom was not of this world and that a pure form of Christianity would flourish if people were left to determine their own religious beliefs and practices. Third, a religious establishment violated the limits of the civil magistrate's legislative authority. The petitioners suggested that the government could only make laws that regulated temporal affairs. Spiritual affairs should remain under the authority of God, the "Universal Judge".⁴⁸ In offering these objections to the principle of a religious establishment, and not only its practice in Virginia, the Hanover Presbytery repudiated the establishmentarian heritage of the Presbyterian Church, at least in Scotland where many of the congregants' ancestors had lived, and forced the government to address both the discriminatory nature of Virginia's establishment and its governing principles.

Of all the petitions received by the House in the autumn and winter of 1776, the vast majority were from dissenters calling for disestablishment and religious equality. Aside from a petition authored by the General Convention of Methodists proclaiming their membership and support of the establishment, the only defence of the existing church-state settlement came

⁴⁸ Miscellaneous, October 24, 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); *Journal of the House of Delegates*, 1776, 32-33.

from a group of Anglican clergymen on November 8, 1776.⁴⁹ The clergymen began by expounding on the commitment that both the government and the Church had made to them and, in return, the commitment that they had made to the Church. In exchange for devoting their lives to the service of the Church, they had been promised, and were rightfully led to expect, security and remuneration. In their eyes, disestablishment would violate the sanctity of both private property and a binding legal contract. The clergymen stated that they had no desire to undermine the religious rights of any citizen, but they believed that a religious establishment was the best means of securing peace and happiness. Since the actions of men were guided by their thoughts and opinions, and Christianity provided the best moral foundation, it was only right and proper that the legislature should support the cultivation of virtuous opinions and honourable actions by protecting the Church. Contrary to the convictions of the Hanover Presbytery, the clergymen maintained that the civil magistrate had the authority, even a duty, to legislate in religious affairs because man's spiritual and intellectual development did not exist in a vacuum: it could not be separated from engagement with the temporal world. Having defended the principle of a religious establishment, the clergymen moved on to defending the "mild and tolerating" religious establishment in Virginia which, they believed, had been responsible for disseminating "Piety and Virtue" for the last 150 years. Rejecting demands for all denominations to be placed on an equal footing, they argued that such an innovation would create confusion and a constant struggle between the churches to assume a position of superiority. This

⁴⁹Miscellaneous, October 28, 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); *Journal of the House of Delegates*, 1776, 40.

competition could create civil disorder and the possible destruction of the Commonwealth.⁵⁰ At a time of revolutionary upheaval, where loyalty and patriotism were under severe scrutiny, the clergymen knew that they needed to affirm their commitment to the cause of an independent, stable and prosperous nation. The dissenters and other opponents of the religious establishment had couched their arguments in terms that emphasised their patriotism and civic-mindedness: members of the Anglican Church, with its historical links to the Church of England, needed to adopt a similar approach if they were to mount an effective defence. Their desire to be seen as an essential part of the new order in Virginia may also have been behind their proposal to solicit publicly the opinions of the Virginian people on the religious establishment, thereby hoping that the Church would secure some much-needed democratic legitimacy: they concluded with the suggestion that “the final Determination of your honourable House...be deferred till the general Sentiments of the good people of this Commonwealth can be collected as your Memorialists have the best reasons to believe that a Majority of them desire to see the Church Establishment continued”.⁵¹

The clergymen’s optimism may have seemed misplaced, given the overwhelming number of petitions sent to the House in opposition to the religious establishment, but the public debate waged in the pages of the *Virginia Gazette* in the autumn and early winter of 1776 was far better balanced. Like the petitioners from Prince Edward County and the Hanover

⁵⁰ The clergymen declared that they “dread the ascendancy of that religion which permits its Professors to threaten Destruction of the Commonwealth, in order to serve their own private ends”. It is not entirely clear which church they are referring to, but it is quite probable that they had revivalists (most likely Baptists) with radical theological and social ideas in mind.

⁵¹ Miscellaneous, 8 November 1776, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); *Journal of the House of Delegates of Virginia. Anno Domini 1776* (Williamsburg: Purdie, 1776) (Evans 15204), 63-64.

Presbytery, some contributors framed their objections to the existing religious settlement in language that reflected a keen awareness of the potential for disestablishment in the Declaration of Rights.⁵² However, supporters of the establishment quickly and fiercely rebuffed their arguments. Sometimes the writers simply traded insults with their opponents: in response to accusations made by 'A Preacher of the Gospel' that ministers of the established church were "drones, who have long lived on the sweets of the land, unprofitable to, and a heavy charge to the public", 'Philoepiscopus' labelled agitating dissenters "cheats and enthusiasts, a scandal to religion".⁵³

Underpinning these jibes, however, were much deeper, intractable divisions over the nature of authority and the threats posed by religion to the security of the Commonwealth. Presenting his case in both a patriotic and rationalistic manner, 'A Preacher of the Gospel' argued that only Jesus Christ could commission clergymen: Anglican ministers may have been legally licensed, but they were not spiritually licensed and were therefore a disgrace to both God and Virginia. Implicitly rejecting the common misconception that evangelicalism and reason were diametrically opposed by conflating the "true light" with enlightened thinking, the author concluded by, once again, emphasising his relationship with God above all else. In reply, 'Philoepiscopus' disputed the veracity of the dissenting preachers' calling, arguing that they exhibited no outward signs of the spirit, but rather behaved in a manner that was unfitting for men of the cloth. He argued that God was a "God of order"; though ultimate authority rested with Him, He

⁵² Buckley, *Church and State*, 22.

⁵³ *Virginia Gazette* (Dixon and Hunter, October 11, 1776); *Virginia Gazette* (Dixon and Hunter, December 13, 1776).

had ordained a system of consecration that all candidates for the ministry should happily submit to. The rites of the induction ceremony were the signs of the spirit. In refusing to submit to ecclesiastical procedures and traditions, 'Philoepiscopas' argued that dissenting preachers were "cheats and enthusiasts, a scandal to religion and dangerous to the commonwealth; they break violently into the sheepfold, and stand upon record in the book of God a hirelings, thieves, and robbers". As the Anglican clergymen had argued in their November memorial, 'Philoepiscopus' suggested that the equalisation of religious sects under law would have dire consequences for the stability and prosperity of the polity. He predicted that such an innovation would create civil war in Virginia and subvert "true religion" in the community.

In a similar vein, 'A Member of the Established Church' argued that the existing religious settlement had produced "peace and order...piety and virtue" and it would therefore be foolish to threaten disestablishment. The author argued that the Christian religion was essential to both the "temporal and eternal welfare" and the civil magistrate of each state therefore had a responsibility to ensure that it was properly cultivated for the good of the people and society at large. A religious establishment with an educated, salaried ministry would attract the most able and virtuous men, whereas a system of popular support such as that advocated by opponents of religious taxation would permit men driven by their passions rather than their reason to assume a position of leadership in the church. Though popular with the people, the author accused the declaimers of corrupting Christianity. He acknowledged that compulsory taxation in support of the Church of Virginia might seem "somewhat hard, and repugnant to liberty", but maintained it

was for the general good. Dissenters enjoyed extensive toleration and would, furthermore, reap the social and political benefits of an establishment; they therefore had a civic, if not a religious, duty to acquiesce in the church establishment and provide financial assistance in its support.⁵⁴ Opponents of the established church also believed that the welfare of society depended on unanimity and co-operation between religious bodies, but, unlike members of the Church of Virginia, they argued that this could be achieved only by removing the privileged status of the Episcopal Church. At this time of political crisis, where the future of the republic was at stake, they argued that it was essential that the people be given the religious liberties they demanded so that all Virginians believed they had a vested interest in the safety and security of their nation. Forcing dissenters to provide financial support to the religious establishment violated these rights and undermined the vitality and growth of "true religion".⁵⁵

In the House of Delegates, the committee for religion was divided between conservatives led by Pendleton, Braxton, and Nicholas who were determined to maintain the religious establishment, and reformers, led by Jefferson, who aimed to revolutionise Virginia's church-state settlement. Pressed to reform the Commonwealth's religious laws by the numerous petitions in favour of disestablishment, the ensuing committee debate brought on what Jefferson later described as "the severest contests in which I have ever been engaged".⁵⁶ Indeed, the disagreements in committee were so severe that the committee reached a stalemate and had to pass the issue to the Committee of the Whole House for consideration. At this time, Jefferson,

⁵⁴ *Virginia Gazette* (Purdie, November 1, 1776).

⁵⁵ *Virginia Gazette* (Purdie, November 8, 1776).

⁵⁶ Jefferson, *Autobiography*, 62.

who had missed the opportunity to assist in framing Virginia's constitution and had returned home to assist in revising the regal government's "very many vicious points" of legislation, assumed the responsibility of drafting radical reforms to the Commonwealth's religious statutes, amongst others, that would revolutionise the laws in line with republican principles.⁵⁷ His resolutions advocated both the repeal of colonial statutes that criminalised certain religious opinions and modes of worship, and the disestablishment of the Church of Virginia.⁵⁸ Specifically referencing the numerous petitions that had been received as evidence of support for his position, he proposed equalising all religious sects and consequently, the abolition of taxes in support of the Episcopal clergy.⁵⁹ This proposal marked a further radicalisation in Jefferson's thinking on church-state issues and laid the groundwork for his later bill to establish religious freedom in Virginia. Only months before, when drafting a constitution for Virginia, he had recommended provisions that continued to bind the Church of Virginia to the civil magistrate; namely the requirement that all church officials take an oath of fidelity to the state and the proposal for juries to settle ecclesiastical legal disputes. However, with this proposal and the copious notes that accompanied Jefferson's draft resolutions, it is clear that by November 1776, in addition to advocating liberty of conscience and the equality of all

⁵⁷ Ibid., 57. As part of a programme of radical legal reform, Jefferson also suggested revisions to Virginia's land law, criminal law and slave code. See Bernstein, *Thomas Jefferson*, 37-41.

⁵⁸ It is not entirely clear when Jefferson drafted this resolution. It was composed before November 19, 1776 when the House voted to continue the regulation of both religious assemblies and the Episcopal clergy, but it is not clear whether he proposed the resolution in the committee of religion or drafted it while the Committee of the Whole House were debating the issue. See Thomas Jefferson, *The Papers of Thomas Jefferson*, Vol. I, ed. Julian P. Boyd (Princeton, NJ: Princeton University Press, 1950), 527; Buckley, *Church and State*, 30; Jefferson, *Autobiography*, 62-63.

⁵⁹ 'Rough Draft of Jefferson's Resolutions for Disestablishing the Church of England and for Repealing Laws Interfering with Freedom of Worship' in Jefferson, *Papers*, Vol. I, 530.

religious sects, he had moved away from the idea that the civil government should interfere in religious affairs and now advocated the almost complete separation of church and state.⁶⁰

The House of Delegates, many of whom Jefferson designated as "churchmen", were unsurprisingly reluctant to approve this radical measure in its entirety and initially settled on a relatively moderate programme of reforms while Carter Braxton, the conservative chair of the committee on religion, was away.⁶¹ In line with Jefferson's resolution, the House agreed to revoke all legislation that regulated religious opinions, modes of worship or attendance at church. Responding to the demands of many petitioners, it also agreed to relieve all dissenters from providing compulsory financial support to the Church or their own religious societies and, in a further step, discontinued the payment of clerical salaries through the legislature, thus establishing a system of voluntary support for all religious denominations in the Commonwealth.⁶² However, it permitted the Church to retain its property and any other holdings indefinitely, in contrast to Jefferson's proposal which would have released glebe lands on the death or resignation of the incumbent minister.⁶³ Finally, in a clear departure from Jefferson's resolution, the House elected to continue regulating the administrative affairs of the churches. It would not interfere in religious doctrine or other spiritual concerns, but it would exercise control over the licensing of

⁶⁰ Buckley, *Church and State*, 31. Jefferson's proposal contained two notable concessions to the religious establishment: he suggested that incumbent clergymen should be permitted to continue using their glebe lands and parishes should be permitted to keep any private donations made in support of the Church.

⁶¹ Selby, *Revolution in Virginia*, 145.

⁶² Outstanding salary payments would be honoured and administered through the vestries.

⁶³ The ownership of glebe lands was a contentious issue: the Church of Virginia considered them private property, but dissenters maintained that they were public property because they had been purchased with money raised through taxation, they were public property. See Selby, *Revolution in Virginia*, 145.

dissenting preachers and the appointment and supervision of Anglican clergymen.⁶⁴

Though these resolutions fell significantly short of Jefferson's proposals, conservatives in the legislature continued to press for more limited measures and the House eventually acceded to their demands. The first draft of the new bill was strictly concerned with the economics of religion in the Commonwealth; it did not mention the administrative regulation of churches, nor did it repeal any colonial statutes on heresy, blasphemy or church attendance. Rather, it relieved dissenters from providing fresh financial support to the established church, but allowed vestries to administer the collection of taxes for clerical back salaries and ongoing poor relief, and reserved church lands and other property for the sole use of the Anglican Church.⁶⁵ The House initially reverted to compelling members of the religious establishment to provide financial support for the Church, but Robert Carter Nicholas successfully moved to suspend these taxes until the next session because he feared that the financial shortfall created by dissenters' exemptions would be too great for members to meet.⁶⁶ The final draft of the bill proposed a general assessment as a means of providing financial support to the churches (but deferred the issue to a future assembly) and after some political manoeuvring on Mason's part, also included Jefferson's original repeal of the colonial legislation on religious affairs.⁶⁷

⁶⁴ *Journal of the House of Delegates of Virginia. Anno Domini 1776* (Williamsburg: Purdie, 1776) (Evans 15204), 85.

⁶⁵ Jefferson, *Papers*, Vol. I, 532-33.

⁶⁶ *Ibid.*, 534.

⁶⁷ 'An act for exempting the different societies of Dissenters from contributing to the support and maintenance of the church as by law established, and its ministers, and for other purposes therein mentioned', in *Statutes at Large*, Vol. IX, ed. Hening, 164-167. The House of

Though the Declaration of Rights offered no threat to the privileged position of the Church, this legislation explicitly reaffirmed the existence of a religious establishment in republican Virginia. In its final form, it upheld the liberty of conscience expounded in the Declaration of Rights and created a system of voluntary support for all religious societies. Moreover, it also protected the property of the Church and permitted vestries to collect tithes from both dissenters and Church members to cover outstanding parish responsibilities. It did not specifically impart the legislature with the authority to regulate the churches, but neither did it limit its jurisdiction in any way and therefore the civil government continued to exercise a considerable degree of power over the administrative affairs of the establishment; a situation that made the Church of Virginia, and its clergy in particular, "more completely dominated by the legislature than they had been before", according to Buckley.⁶⁸ Notwithstanding the private attachments assemblymen may have had to the established church, John Selby argues that economic concerns were critical in the decision to arrest any move towards disestablishment, as is borne out in the details of the final legislation. Since its inception, the Church of Virginia had attended to both the religious and social welfare of its parishioners; while these responsibilities remained, any radical changes to its constitutional status would place an increasingly insurmountable strain on its members and

Delegates continued to suspend tithes for church members in subsequent sessions until 1779, when taxes in support of Episcopal clergy were abolished altogether.

⁶⁸ Buckley, *Church and State*, 36. For evidence of the legislature exercising its authority over the Church of Virginia in the months immediately following this legislation, see 'An act to empower the vestries of the parishes of St. James and Amherst to fix the rate of paying the levies thereof in tobacco', in *Statutes at Large*, Vol. IX, ed. Hening, 238; 'An act for dissolving the vestries of several parishes', in *Statutes at Large*, Vol. IX, ed. Hening, 317-318; 'An act to empower the vestry of the parish of Botetourt to dispose of their glebe, for dissolving the said vestry, and for other purpose therein mentioned', in *Statutes at Large*, Vol. IX, ed. Hening, 318.

undermine the provision of care it was obligated to provide.⁶⁹ It was not a step the assembly's churchmen were willing to take in 1776.

In the years between the passage of the 1776 Act and the introduction of Jefferson's statute for religious freedom in 1779, the House of Delegates continued to regulate the affairs of the Church and repeatedly suspended members' tithes for clerical salaries, but it passed no further legislation on the constitutional status of the religious establishment.⁷⁰ However, the flood of petitions that prompted the latest round of political conflict did not dissipate with the introduction of a tax exemption for dissenters. In subsequent legislative sessions, the House received a number of memorials; this time, petitions from supporters of the establishment greatly outnumbered those from dissenters. The growing popularity of evangelical religion and the legislature's decision to absolve the state of any responsibility for collecting taxes in support of the Church emboldened its members to campaign for the protection of, and in some cases the extension of, their privileges. Petitions from dissenters covered a relatively broader range of issues, but were initially concerned with the payment of tithes and the legislature's proposals for a general assessment.⁷¹

⁶⁹ Selby, *Revolution in Virginia*, 146.

⁷⁰ During this period, the legislature received many petitions from Church members requesting the dissolution of vestries and a number from vestries requesting the division of parishes or permission to buy or sell glebe land. The House of Delegates, preoccupied with more pressing political matters, did not legislate on all complaints, but did respond sympathetically on a number of occasions. In 1777 and 1778, the House passed a total of eight Acts in response to requests from members.

⁷¹ Other petitions submitted to the House of Delegates by dissenters during this period include one from seceding Presbyterians who conscientiously objected to the practice of

The General Association of Separate Baptists lost no time in assembling to discuss their response to the assembly's suggestion that the salaries of all clergymen should be raised through public taxation. Less than one month after the Act had been passed, representatives from this Association met in Dover, Goochland County to consider their position, in accordance with the wishes of the civil government which had solicited the opinion of the public in this matter. In a declaration later published in the *Virginia Gazette*, they signalled their support for the recent legislation and then proclaimed that "a general assessment (however harmless, yea useful some may conceive it to be) is pregnant with various evils, destructive to the rights and privileges of religious society".⁷² Using the language of Virginia's lawmakers in support of their case, they demonstrated that their demands for religious liberty were not far-fetched, but were consistent with the promises of the Commonwealth's revolutionary settlement. The Baptists argued that the payment of clerical salaries through a system of public taxation would make preachers into public servants and thus answerable to the state rather than the religious society to which they belonged. This was a development that threatened the free exercise of religion, as articulated in the final article of the Bill of Rights. Believing it to be their "duty...to retard, or, if

kissing a Bible in court before testifying; one from Baptist preacher Jeremiah Walker who requested that his prosecution for illegal preaching from 1773-1774 be reconsidered; and one from Quakers who wished to be excused from bearing arms and taking oaths. See Miscellaneous, October 29, 1778, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Miscellaneous, November 14, 1778, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Miscellaneous, November 17, 1778, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

⁷² It is unclear whether this declaration was sent to the House of Delegates as an official petition from the General Association of Separate Baptists since no record exists either in the Journal of the House of Delegates, or in the collection of religious petitions held at the Virginia State Library and later digitised by the Library of Congress. See Buckley, *Church and State*, 39.

possible, to prevent the luxuriant growth of a plant that has always brought forth the most bitter and baneful fruit wherever it has been cultivated", they announced that their ministers would return any money collected through taxation.⁷³

The Presbytery of Hanover filed a similar petition with the House of Delegates four months later. As before, they began by articulating their patriotic credentials, commitment to the republican cause in Virginia, and determination to share in the political inheritance of the Revolution:

[Y]our Memorialists, and the religious denomination with which we are connected, are most sincerely attached to the common interests of the American States, and are determined that our most fervent prayers, & strenuous endeavours, shall ever be united with our fellow Subjects, to repel the assaults of Tyranny and to maintain our common Rights.

Their previous memorial had petitioned for relief from taxes in support of the establishment clergy; they therefore welcomed the government's recent legislation, but were greatly troubled by the prospect of a general assessment and asked that all dissenters "be exempted from all Taxes for the support of any Church whatsoever further than what may be agreeable to the private Choice or voluntary obligation of every individual". They maintained that the civil magistrate should limit itself to temporal matters and, like the Baptists, argued that an assessment would contravene the final article of the Bill of Rights. The presbyters believed that the free exercise of religion was an inalienable right and since Christ had ordained his church, He would support it by His providence; it did not need to rely on the support of the state. They feared that the introduction of a tax-supported clergy would have

⁷³ *Virginia Gazette* (Dixon and Hunter, March 28, 1777).

injurious consequences for society and force all ministers to serve men rather than God, thereby creating a new establishment in Virginia.⁷⁴

Members of the religious establishment were slower to reply to the legislature's request for views on the prospect of a general assessment, but their response was considerably more extensive. In 1777 and 1778, the House of Delegates received nine petitions from Anglicans who were concerned about the position of the Church and, more broadly, the corruption of Christianity in revolutionary Virginia. Unsurprisingly, a number expressed their opposition to the spread of evangelical religion and complained bitterly about the activities of dissenting groups. Petitioners in Mecklenburg, Lunenburg, and Westmoreland condemned dissenters for "imposing upon the credulity of the vulgar, and engaging infants to sign petitions", while petitioners from Cumberland accused them of "persuading the ignorant and unwary to embrace their erroneous tenets...not only opposite to the doctrines of true Christianity, but subversive to the morals of the people, and destructive of the peace of families, tending to alienate the affection of slaves from their masters, and injurious to the happiness of the public".⁷⁵

Though they were united in antipathy towards their evangelical rivals, the Church petitioners did not concur on the best course of legislative action. In contrast to the Baptists and Presbyterians, who stood together in

⁷⁴ Miscellaneous, June 3, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>). The petition was received by the House of Delegates on June 3, but was written on April 25, 1777.

⁷⁵ Cumberland, May 21, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Mecklenburg, May 29, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Lunenburg, December 11, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Westmoreland, October 9, 1778, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

firm opposition to the principle of a general assessment despite their theological and ecclesiastical differences, the Anglicans did not co-ordinate their efforts and petitioned the House of Delegates with various requests. Members from Cumberland County, who petitioned the legislature three times during this period, were vociferous in their hostility towards dissenters and wished to see “a well regulated toleration established”, whereby “sectaries” would be prohibited from holding nightly meetings and forced to submit to an examination of their morals before being granted the necessary licence to preach and meet together.⁷⁶ While members in Cumberland petitioned for a restoration of the pre-revolutionary religious establishment, members in Caroline declared their approbation of the recent legislation exempting dissenters from providing financial support to the Church of Virginia, but requested that the legislature implement a system of general assessment and regulate religious worship on the grounds that “Public Worship is a duty we owe the Creator and preserver of Mankind, and productive of Effects most beneficial to Society”. The petitioners believed that a general assessment was necessary because they were convinced that the system of voluntary contributions would fail and they thought it was important for ministers to be relieved of any financial concerns in order to

⁷⁶ The petitioners blamed the dissenters for “alienat[ing] the affection of slaves from their masters” and holding “nightly meetings of slaves, to receive instructions...without the consent of their masters, which have produced very bad consequences”. Their desire to prohibit nightly meetings was grounded in a fear about the impact of the dissenters’ evangelising efforts amongst enslaved Virginians. Cumberland, May 21, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Cumberland, November 6, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Cumberland, November 6, 1778, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

focus their minds on spiritual matters.⁷⁷ Their pleas were echoed by petitioners in Amherst County, who blamed the decline of religion in Virginia on the “want of some proper mode adopted for its support”.⁷⁸ In contrast to these petitions requesting the intervention of the civil magistrate, a broadside circulated in the counties of Mecklenburg, Lunenburg, and Westmoreland recommended that the assembly defer any further decisions on Virginia’s church-state settlement until the end of the Revolutionary War. Comparing their patriotic sacrifice with the selfishness of dissenters who “withhold their concurrence in the common cause, until their particular requests are granted”, they signalled their support for the continued suspension of clerical salaries in the cause of national unity and conceded to a debate over the religious situation in Virginia. While they themselves believed that an establishment was “one of the greatest bulwarks of liberty, the cement of society, the bond of union and an asylum for the persecuted to fly to”, they were, unlike their fellow Anglicans in Cumberland, willing to admit that it was an issue of some dispute.⁷⁹

On June 12, 1779, John Harvie presented Bill number 82 to the House of Delegates. It was a bill “concerning religious freedom”, drafted by Jefferson

⁷⁷ Caroline, December 5, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

⁷⁸ Amherst, October 13, 1778, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

⁷⁹ Mecklenburg, May 29, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Lunenburg, December 11, 1777, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Westmoreland, October 9, 1778, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

in 1777 while on a committee to revise Virginia's legal code in line with republican principles.⁸⁰ Jefferson had spent time perfecting the details of the proposal with George Wythe in February 1779, but was unable to introduce the statute personally; he had been elected to the governor on June 1 and was therefore unable to participate in legislative proceedings.⁸¹

The statute reflected Jefferson's longstanding conviction that religious matters were a private concern.⁸² He was reluctant to discuss his own beliefs and could best be described as a freethinker: he was firmly convinced of the importance of morality, but he had little time for supernatural religion, dogma or ecclesiasticism.⁸³ He was raised in an Anglican family and received his formative education from Church of England parsons, but, by the 1760s, Jefferson had started seriously to question many of the basis tenets of orthodox Christianity, including the Trinity, the divinity of Christ, and the revelatory nature of the Bible.⁸⁴ Though he maintained a lifelong association with the Episcopal Church, his religious beliefs, recently characterised by David L. Holmes as "monotheistic, restorationist, reason-centred, anti-Calvinist, anti-clerical, and combative toward mystery" were arguably most

⁸⁰ *Journal of the House of Delegates of Virginia. Anno Domini, 1779* (Williamsburg, 1779) (Evans 16659), 50; Daniel L. Dreisbach, 'Jefferson's Views on Church-State Relations: The Virginia Statute for Establishing Religious Freedom in Its Legislative Context', *American Journal of Legal History*, 35 (1991), 180-81.

⁸¹ Jefferson, *Autobiography*, 70; *Journal of the House of Delegates of Virginia. Anno Domini, 1779* (Williamsburg, 1779) (Evans 16659), 36.

⁸² Dumas Malone, *Jefferson and His Time, Vol. I: Jefferson the Virginian* (Charlottesville: University of Virginia Press, 2005), 106; Eugene R. Sheridan, *Jefferson and Religion* (Charlottesville: Thomas Jefferson Memorial Foundation, 1998), 14.

⁸³ Malone, *Jefferson*, Vol. I, 275; Alan V. Briceland, 'Thomas Jefferson's Epitaph: Symbol of a Lifelong Crusade Against Those Who Would "Usurp the Throne of God"', *Journal of Church and State*, 29 (1987), 291.

⁸⁴ His father, Peter Jefferson, was a vestryman. Until he was sixteen, he was educated by local Anglican ministers; most notably the Reverend James Maury, whose academy Jefferson attended for two years. All but one of the faculty members at the College of William and Mary were Anglican clergy, but it was the layman, William Small, who had the most profound influence on Jefferson. See David L. Holmes, *Faiths of the Founding Fathers* (Oxford; New York: Oxford University Press, 2006), 79-80; Sheridan, *Jefferson and Religion*, 15.

closely aligned with Unitarianism.⁸⁵ It seems likely that the unorthodoxy of his own beliefs played an instrumental role in shaping his conviction that religion should remain outwith the legislative purview of the civil authorities, but unlike the evangelicals who campaigned for religious liberty in order to free themselves from discrimination or persecution, Jefferson's convictions were ultimately grounded in intellectual reasoning and a political antipathy towards privilege. He believed that religion was a private concern because it was a matter of conscience and, though both socially and culturally he had more in common with his Anglican neighbours than the growing number of evangelicals in his county, he objected to the special status accorded to the Church of Virginia, its clergymen and members by the government of the Commonwealth.⁸⁶

⁸⁵ Jefferson was married by an Anglican clergyman in 1772, attended church "with some regularity", designed the first Episcopal Church in Charlottesville and provided financial support to the evangelical ministry of the Reverend Charles Clay in the 1780s. When he died in 1826, an Episcopalian minister presided at his funeral. However, he refused to serve as a godfather for the children of his Anglican friends because he would have been obliged to profess a belief in the Trinity. There was no Unitarian church in the Virginia Piedmont, but he attended Joseph Priestley's church when he lived in Philadelphia. See Holmes, *Faiths of the Founding Fathers*, 80-89. Jefferson's religious convictions, like many of his contemporaries, are extremely difficult to define definitively, not least because he was reluctant to discuss them in any great depth. Conrad Wright is uncomfortable with the identification of Jefferson as a Unitarian because he shared neither the Arian Christology of the New England Unitarians nor Priestley's belief in miracles as proof of Christ's divinity. More importantly, Wright believes that Jefferson's definition of religion precluded any substantive denominational affiliation: "[f]or Jefferson, religion was first and foremost a set of opinions about God and our obligations to Him, with the systems of morals that results. This is a concept of religion that is both highly intellectual and extremely individualistic...This privatization of religion leaves no place for its corporate aspects, for churches and other ecclesiastical institutions, except perhaps as they may be instruments of intellectual tyranny. For Jefferson, religion remained a private possession because there was nothing in his understanding of it that suggested that the religious community has any value or that there is anything in human nature that craves religious fellowship". See Conrad Wright, 'Review of Dickenson W. Adams and Ruth Lester eds., *Jefferson's Extracts from the Gospels: 'The Philosophy of Jesus' and 'The Life and Morals of Jesus', William and Mary Quarterly*, Third Series, 41 (1984), 320-321. For a further, detailed discussion of Jefferson's religious beliefs, see Sheridan, *Jefferson and Religion*; Charles B. Sanford, *The Religious Life of Thomas Jefferson* (Charlottesville: University Press of Virginia, 1984); Edwin S. Gaustad, *Sworn on the Altar of God: A Religious Biography of Thomas Jefferson* (Grand Rapids, MI: Wm. B. Eerdmanns, 1996).

⁸⁶ Malone, *Jefferson*, Vol. I, 275-276.

Jefferson's 1779 statute for establishing religious freedom was the fullest expression of his thinking on the relationship between church and state in Virginia, and marked a high point in the radicalisation of his political philosophy. As William Lee Miller argues, Jefferson did not simply equate the Revolution with political independence as some of his more conservative contemporaries in the House did; rather, the Revolution was "the building, after independence, of something new on the globe, a complete, fresh, and large-scale republican form of government".⁸⁷ Alongside proposals to abolish entail and primogeniture and reform the education system, Jefferson believed that it contributed to a system "by which every fibre would be eradicated of ancient or future aristocracy; and a foundation laid for a government truly republican".⁸⁸ The bill was divided into three sections: the first outlined the philosophical rationale for the legislation; the second detailed its provisions and the third expressed the nature of the rights enumerated. The extensive preamble expounded upon the principles behind the law: that God had created men with free minds and intended them to remain free; that any attempt by men to prescribe the religious opinions of others creates hypocrisy and gives rise to false religions; that compelling men to support a denomination they do not subscribe to is both "sinful and tyrannical", while forcing them to contribute to their own infringes on their personal liberty; that religious convictions have no bearing on civil rights and therefore men should not be disqualified from office on the basis of their religious opinions; that binding the government to a particular religion undermines and pollutes that religion by promoting adherence through

⁸⁷ William Lee Miller, *The First Liberty: Religion and the American Republic* (New York: Knopf, 1986), 8.

⁸⁸ Jefferson, *Autobiography*, 77.

bribery; that the regulation of the religious affairs by the civil magistrate destroys religious liberty and, finally, that the truth will prevail, regardless of attempts to promote or prohibit certain ideas.

The legislative portion of the statute declared:

That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

In other words, the bill enacted full religious liberty: citizens would be free to believe what they wished and act upon these beliefs in accord with their conscience, without fear of repercussions from the civil magistrate. Neither the government, nor the legislature could not criminalise any religious opinions or activities, it could not compel citizens to provide financial support to any religious society and it could not bind citizenship to religious affiliation. However, they did not expressly prohibit a religious establishment, nor did it enact total separation of church and state.⁸⁹

The third and final section proclaimed that the statute was irrevocable, grounded in the natural rights of the people rather than the authority of a particular legislature. In Jefferson's mind, the bill was not an ordinary piece of legislation, drafted in response to a particular political or economic issue; rather, it was derived from first principles and was intended to serve as a cornerstone of Virginia's republican legal code. While Jefferson was firmly convinced of the sovereignty of the people assembled in government and the authority of subsequent assemblies to overturn

⁸⁹ Dreisbach, 'Jefferson's Views on Church-State Relations', 185.

legislation passed by their predecessors, he believed that certain laws, the founding principles of government and civil society, should remain immutable. In 1776, he had been concerned about the authority of the convention that framed and ratified Virginia's constitution because he feared that a subsequent legislature could and would overturn their decision; he believed that a document as foundational as the constitution should have a degree of immunity in Virginia's legislative process. By a similar token, this statute was to be upheld by subsequent generations of legislators as a fundamental decree of the republic.

As Daniel Dreisbach rightfully points out, the bill "was not neutral towards religion".⁹⁰ Jefferson justified the statute, in part, on explicitly religious grounds; indeed, recognition of the deity and His will formed the underlying principle of the proposal. The opening sentence declared:

...that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of religion, who being lord both of body and mind, yet chose not to propagate it by coercions on either, as was his Almighty power to do so, but to extend it by its influence on reason alone...⁹¹

The rhetoric and, more important, the rationale reveal that Jefferson did not intend to create an entirely secular state. By its very nature, it implied ongoing communication between religion and the civil magistrate: it "fell

⁹⁰ Ibid., 186.

⁹¹ 'A Bill for Establishing Religious Freedom' in Jefferson, *Papers*, Vol. II, 545-546.

short of advocating an absolute principle that civil government and religion may never interact in a cooperative manner".⁹²

With Jefferson no longer able to defend his statute in the Assembly, the responsibility for securing the necessary support for the bill fell to his political allies in the House of Delegates. Unable to secure the necessary approval among members, it was read twice before judgement on the measure was deferred until August 1.⁹³ The bill was published as a broadside during the Assembly's recess, which gave potential supporters and opponents of the statute time to return their judgement before the House of Delegates reconvened in October.⁹⁴ Unsurprisingly, given the divergence of opinion on previous church-state issues, the response from religious groups was mixed. Judging by the character of the petitions submitted to the Assembly and the commentaries in the *Virginia Gazette*, however, public opinion in Virginia was generally opposed to Jefferson's measure.

'An Eastern Layman' took issue with Jefferson's philosophical reasoning and his arguments in favour of extending religious freedom. Arguing that "maxims founded upon experience" were a more effective and honest means of establishing judicious legislation than "artful deductions from any particular premises", the author argued that there was a necessary

⁹² Dreisbach, 'Jefferson's Views on Church-State Relations', 187.

⁹³ *Journal of the House of Delegates of Virginia. Anno Domini, 1779* (Williamsburg, 1779) (Evans 16659), 53.

⁹⁴ There is some confusion as to whether the bill was printed privately or by the House of Delegates. Boyd argues that the evidence tends towards the former: no authorisation for printing appeared in the *Journal of the House of Delegates* and the broadside was not transmitted from an administrative official of the legislature. See Jefferson, *Papers*, Vol. II, 548.

distinction to be made between the morality of free thinking and free religious expression. While the former was "a dogma, to which every rational mind must necessarily accede", the latter failed to take "social tranquillity...one of the first objects of every civil institution" into account. Men living in a state of society were unable to enjoy the same level of independence and "personal equality" as those living in a state of nature without creating "inevitable confusion" and evils in society. True religious freedom could only be enjoyed when it was properly regulated.⁹⁵

'A Social Christian' offered a far more vociferous, and extensive, critique. In a society that was being increasingly challenged and transformed by the spread of evangelical religion, it would have been impolitic for the author to admit that he was, effectively, an apologist for the establishment. It is clear, however, from the arguments presented in his essay that his values; indeed, his worldview, were very much grounded in the traditional religious culture of Virginia where order, hierarchy and social responsibility were guiding principles.

In his opening paragraph, he accused Jefferson of Deism and argued that the statute "proposes to discontinue all publick [sic] religious worship, and to tolerate Atheism, and every degree of impiety which the wickedness of individuals may suggest". Like 'An Eastern Layman', he argued that rules for men in a state of society were, by necessity, different from those in a state of nature: that, in considering the social compact, legislators should consider the collective interest rather than the interest of individuals, and that the public support of Christianity promoted morality within the community. While agreeing with Jefferson that Christ had never relied on "temporal

⁹⁵ *Virginia Gazette* (Dixon and Nicolson, August 14, 1779).

force" in propagating his gospel, the author maintained that in a society of Christians, such as that which existed in Virginia, it was entirely right and reasonable that religion was regulated for the promotion of public happiness.⁹⁶ The minority of Jews, Muslims, Atheists and Deists living in Virginia should not be persecuted for their beliefs, but they should be excluded from office, prevented from publishing their opinions and forced to support religious worship since the views they held were likely to undermine the general good. The author declared his opposition to the principle of a single religious establishment, suggesting that favouring one denomination over others was "narrow, illiberal and unmanly", and argued that he sought only the establishment of Christianity "at large". Jefferson's declaration that it was "sinful and tyrannical" to compel men to support a denomination to which they did not adhere was "raising a ghost to frighten us all" since the legislature had abolished tithes for the Church of Virginia in 1776. Turning his attention to the question of whether citizens should be obliged to support the denomination of their choice, he correctly identified the future of the church-state debate in Virginia. If an established church was no longer politically feasible, should legislators implement a general assessment in support of Christian worship or should it remove itself entirely from the realm of religious affairs? Unsurprisingly, the author argued that public worship should be "established and regulated...[with] provision made for supporting Christian teachers and places of worship". It was a social obligation, given God's safe deliverance during times of war; it was a social cement which brought people together and thereby prevented civil

⁹⁶ *Virginia Gazette* (Dixon and Nicolson, September, 11, 1779). The article appeared in two parts: it was continued the following week.

disturbance; it was a safe and useful activity on a Sunday which protected men from the idleness and immorality of drinking and gambling on the day of rest and, finally, it was the best means of inculcating virtue in the populace. In short, “publick [sic] worship is not only a duty but very beneficial to the state”. Despite earlier proclaiming that he did not favour one denomination over another, he went on to outline why the kind of worship practised in the more conservative churches was better than that found in evangelical religious societies, where members relied on the services of itinerant preachers; or in other words, why the established church was the best institution for disseminating true Christianity. Itinerant ministers were likely to create short-term converts and social discord in communities, whereas a fixed clergyman would provide leadership and ongoing religious and moral support to his congregation.⁹⁷

The arguments presented by these two authors were reiterated in petitions sent to the House of Delegates by supporters of the establishment in the autumn of 1779. Residents of Culpeper County requested that the legislature reject the bill and institute “a mode of religious establishment as they suppose will be beneficial to the people”, while parishioners in Essex County requested a system of general assessment; the regulation of itinerant preaching; a proscription on religious doctrine that was liable “to subvert Government or Distress Civil Society”, and a religious test for officeholders to prohibit non-Christians from assuming positions of political leadership.⁹⁸ Petitioners in Amherst County were also concerned about the possibility of

⁹⁷ *Virginia Gazette* (Dixon and Nicolson, September 18, 1779).

⁹⁸ Culpeper County, October 21, 1779, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Essex County, October 22, 1779, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

non-Christians, or more specifically non-Protestants, taking office in Virginia. They requested that the Assembly offer only limited toleration to Catholics on the basis of their "intolerant and persecuting spirit" and asked that "no Roman Catholic, Jew, Turk, or Infidel" be entitled to hold any position of political or military authority. They imagined a protected Protestant hegemony in Virginia, where those who met the necessary requirements would be obliged to provide regular support to a minister of their choice, and those that did not, would be restricted in the opportunities and liberties afforded to them.⁹⁹ This petition was in marked contrast to another sent from the same country by "Church of England men, Presbyterians, Baptists & Methodists", nine days previously which offered "hearty Assent Concurrence & Approbation" to the Bill. "Fully Persuaded....That the Religion of Jesus Christ may and ought to be Committed to the Protection Guidance and Blessings of its Divine Author, & needs not the Interposition of any human Power for its Establishment & Support", they requested "that all the Subjects of this Free State may be put upon the same footing and enjoy equal Liberties and privileges, which we think (Consistent with the 16th paragraph of the Declaration of Rights), can no longer with any shadow of Justice be withheld".¹⁰⁰

Notwithstanding the support Jefferson's bill received from some quarters, public opinion in Virginia was generally opposed to the measure and this understandably took its toll on the statute's fortunes in the

⁹⁹ Amherst County, November 10, 1779, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹⁰⁰ Amherst County, November 1, 1779, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

Assembly.¹⁰¹ Instead of considering Jefferson's proposal, a committee was formed to prepare a new bill "concerning religion". The legislation they drafted was inspired by the church-state settlement in South Carolina, a state that provided for a Christian establishment, the incorporation of religious societies and toleration for dissenters; had it been passed, the bill would have reversed the trend of recent legislation on religious affairs in Virginia. In contravention of the Declaration of Rights, the drafting committee proposed limiting religious toleration to individuals who would affirm their belief in one God, a system of future rewards and punishments, and the importance of public worship. It recommended the establishment of Christianity as the religion of the state and the incorporation of all denominations that subscribed to a set of five articles. These articles were relatively broad, but would have been unacceptable to Catholics, Quakers and, of course, the small Jewish community in Richmond.¹⁰² The bill then provided for the regulation of all clergymen in the commonwealth. They were to be appointed by a majority of a congregation or their representative and, on assuming office, would be obliged to take an oath promising to limit their sermons to Scripture-based issues and provide a model of godly behaviour for their congregants. The clergy were to be answerable to the civil magistrate and would not be permitted to speak out against the government during Sunday worship.¹⁰³ Finally, in a departure from the settlement in South Carolina,

¹⁰¹ At their General Association meeting in October 1779, Baptists approved the bill and resolved to announce their approval to the press. See Buckley, *Church and State*, 55.

¹⁰² The fourth article, "That the Holy Scriptures of the old and new Testament are of divine inspiration, and are the only rule of Faith" would have been problematic for Catholics who also subscribed to ecclesiastical tradition as a rule of faith, and Quakers who believed in the 'Inward Light' as a source of divine inspiration and guidance. Jews would have been unable to accept the third article, which declared "That the Christian religion is the true Religion". See Buckley, *Church and State*, 57.

¹⁰³ *Ibid.*, 56.

where assemblymen had established a system of voluntary support for religious societies, the committeemen recommended a system of assessment. Virginians would be permitted to determine which religious society should benefit from their tithe, but their choice would be limited to the list of incorporated denominations and therefore Catholics, Quakers, Jews and other non-Christians would be obliged to provide financial support to their local Anglican, Presbyterian, Baptist or Methodist church: a move that clearly ran counter to the provisions of the hard-fought legislation from 1776. The House had, at that time, proposed a system of general assessment and invited Virginians to respond to the suggestion, but it had not been seriously considered in the Assembly until now. After surviving two readings, delegates agreed to delay a decision on the proposals until March 1, 1780, but no vote was ever taken.¹⁰⁴ The bill was quietly buried, but its provisions were not so quickly, or so easily, forgotten. The proposal to implement a system of general assessment as a means of striking a balance between the principle of religious liberty and demand for the public support of religion would prove particularly durable. The churchmen in the Assembly, encouraged by the recent raft of petitions in opposition to Jefferson's proposals, were determined to keep the issue alive.

Their reluctance to rule out the possibility of establishing a system of general assessment can be seen in the Assembly's decision to edit Mason's preamble to the bill for repealing clerical salaries. The House of Delegates had been suspending taxes in support of the Anglican clergy at every legislative session since 1776 and in November 1779, they had finally decided

¹⁰⁴ *Journal of the House of Delegates of Virginia. Anno Domini, 1779* (Williamsburg, 1779) (Evans 17056), 28, 29, 70.

that a bill should be drafted repealing the original act. Mason, Randolph and French Strother were charged with the responsibility of framing the legislation.¹⁰⁵ In the introduction to the bill, they declared that it was intended:

To remove from the good People of this Commonwealth the Fear of being compelled to contribute to the Support or Maintenance of the former established Church, And that the Members of the said Church may no longer relye upon the Expectation of any Re-establishment thereof, & be thereby prevented from adopting proper Measures, among themselves, for the Support and Maintenance of their own Religion and Ministers¹⁰⁶

The Assembly did not approve of Mason's preamble and it was removed from the final bill, thereby opening up the possibility that a system of general assessment would be introduced at a later date.¹⁰⁷ The fiscal link between the state and the Church of Virginia had been severed, but the legislature was not yet ready to preclude any future role in supporting religious provision.

In the years between the passage of the 1779 Bill and the end of the War in 1783, the House of Delegates continued to receive a number of religious petitions, many of which related to the administration of parish affairs or disputes within the Church.¹⁰⁸ The Baptist community persisted in its efforts

¹⁰⁵ Ibid., 70.

¹⁰⁶ 'A Bill for Repealing the Act to Support Ministers of the Established Church' in *Papers of George Mason*, Vol. II, 553.

¹⁰⁷ 'An Act to repeal so much of the act for the support of the clergy, and for the regular collecting and paying the parish levies, as relates to the payment of the salaries heretofore given to the clergy of the church of England', in *Statutes at Large*, Vol. X, ed. Hening, 197-98.

¹⁰⁸ See Amherst, May 18, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting the redrawing of parish divisions; Sussex, November 8, 1780, Early

to persuade the Assembly to repeal legislation that favoured the Church of Virginia and discriminated against dissenters. A significant proportion of these petitions were concerned with the law that prevented their clergymen, like those of other religious societies, from officiating at marriage ceremonies.¹⁰⁹ Petitioners requested a repeal of the law and the legislation of marriages already performed by non-Anglican ministers. There was a shortage of Anglican ministers west of the Blue Ridge Mountains and those that were available to officiate could charge prohibitively high fees. After two failed attempts to revise the legislation, the Assembly eventually passed an act in the summer of 1780 which permitted "any minister of any society or congregation of christians, and for the society of christians called quakers or menonists, to celebrate the rights of matrimony".¹¹⁰ Dissenting clergymen, however, would be obliged to apply for a licence in order to perform marriage ceremonies, county courts would only be permitted to issue four

Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting the dissolution of the vestry in Albemarle Parish; Cumberland, November 23, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition in opposition to the removal of the parish minister in Littleton; Caroline, December 12, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting a new vestry; Amelia, December 14, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting the removal of the parish minister in Nottoway; Prince Edward, November 22, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting the dissolution of the vestry and the sale or rental of the glebe; Bedford, June 3, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting the division of the parish; Halifax, June 8, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting permission to sell or rent the glebe.

¹⁰⁹ See Amelia, May 12, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Spotsylvania, June 5, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹¹⁰ A preliminary bill was proposed and rejected in November 1779. The House approved a second bill in the spring of 1780, but it failed to pass in the Senate. See Buckley, *Church and State*, 55, 61

licences for every dissenting sect in the county and marriages already solemnised would not be recognised by the civil authorities.¹¹¹ Understandably, the Baptists were not satisfied with this legislation and continued to petition the Assembly for a more extensive revision of the marriage laws.¹¹² The House of Delegates refused to enact further legislation or respond to more general petitions from the Baptist community about religious inequalities in the Commonwealth, in part because delegates were preoccupied with more pressing political and military matters and in part because there was a lack of political will in the Assembly to make more radical reforms to the religious establishment.

The conclusion of the conflict with Britain allowed the Assembly to devote more time and attention to domestic affairs, including the nature of church-state relations in Virginia. In the months that followed the Peace of Paris both sides of the debate took a renewed interest in the religious settlement of the Commonwealth. Those who believed that the civil magistrate should play a leading role in the inculcation of virtue and morality in the populace stepped up calls for a closer association between the government and the churches, while those who believed that the government had not gone far enough in establishing religious liberty and

¹¹¹ Every Anglican clergyman would still be permitted to officiate at marriage ceremonies. See 'An act for declaring what shall be a lawful marriage', *Statutes at Large*, Vol. X, ed. Hening, 361-63.

¹¹² See Miscellaneous, June 3, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Essex, May 30, 1783, Miscellaneous, June 3, 1780, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>). In 1783, the House of Delegates passed an act empowering licensed laymen to officiate at marriage ceremonies where an insufficient number of clergymen existed, most likely in response to the issues raised by petitioners in Kentucky. See District of Kentucky, June 3, 1782, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); 'An act to authorize and confirm marriages in certain cases', *Statutes at Large*, Vol. XI, ed. Hening, 281-282.

equality renewed their efforts to exact further progress in the separation of church and state.

In the autumn of that year, the legislature received two petitions from citizens in favour of a general assessment. On November 8, a remonstrance from "all Sects and Denominations of Christians within the State" was received from Lunenburg County. The authors expressed their "pain and regret" in watching "the propagation of the Gospel die away in many parts of the Country; and its diligent and faithful Ministers neglected" since the suspension of clerical salaries during the Revolutionary War. They lamented the implementation of voluntarism because it forced the pious to impoverish themselves in order to compensate for those who were indifferent to religion and therefore refused to make any sort of financial contribution to the Church. In order to remedy this problem, they requested a "free and universal Toleration" for all Christian sects and a "General and equal Contribution of the whole State "towards the support of Christianity in Virginia."¹¹³ Later that month, the House of Delegates received a petition from citizens in Amherst County who were similarly concerned with what they perceived to be the growing impiety and immorality in the state. They requested the passage of appropriate laws to inculcate virtue and punish vice and, like their counterparts in Lunenburg, called for the establishment of a general assessment as a means of combating the growing spiritual deficiency in the state.¹¹⁴

¹¹³ Lunenburg, November 8, 1783, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹¹⁴ Amherst, November 27, 1783, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

The House of Delegates could not come to an agreement over the best way to proceed with the assessment issue and the matter was quietly pushed to one side. When the Assembly reconvened for the spring session in 1784, Madison returned to the lower house after four years representing Virginia at the Continental Congress. His election and willingness to engage with the cause of religious liberty had a profound impact on the nature and direction of the church-state debate over the next two years. His adversary in this issue, and many others, was Henry; the delegate Madison had relied upon to introduce his amendment to the Declaration of Rights in 1776. Eight years later, they found themselves working against, rather than with, one another. They had very different visions of the relationship between religion and the civil magistrate in Virginia. Madison, like Jefferson, hoped to establish absolute religious freedom in Virginia, the separation of church and state, while Henry believed that the civil government had a role to play in supporting religious provision in the state. Madison knew when he took his seat in the Assembly that Henry was in favour of introducing a system of general assessment; he had asked Philip Mazzei to determine Henry's position on this and other matters before the legislature convened in May.¹¹⁵

Within days of settling down to business, the Assembly received a petition from Warwick County in favour of establishing a general assessment. Echoing the sentiments of their counterparts in Lunenburg and Amherst, they pointed to the "general neglect of Religion and Morality in this State" and declared that "it is essentially necessary for the good

¹¹⁵ Buckley, *Church and State*, 79; 'James Madison to Thomas Jefferson, April 25, 1784' in Jefferson, *Papers*, Vol. VII, 122. In a letter to Jefferson, Edmund Randolph revealed that Henry was the private patron of an assessment bill, but he could not be sure if Henry would "hazard himself in public". See 'Edmund Randolph to Thomas Jefferson, May 15, 1784' in *ibid.*, 260.

Government of all free States, that some legislative attention should be paid to religious Duties". This attention, they suggested, should come in the form of a "general assessment upon all Tithables of this Commonwealth" because it was the best means of propagating Christianity in Virginia.¹¹⁶ The Committee of Religion considered the petition and, almost two weeks later, reported that it found the request of the memorialists "reasonable". The issue of a general assessment was referred to a Committee of the Whole House.¹¹⁷

The previous day, the House had received two petitions from the dissenting community: one from a Baptist Association and one from the Presbyterian clergy. Neither of them was concerned with the prospect of an assessment, but rather the broader problem of religious inequality. The Baptist petitioners from King and Queen County complained that they had "been treated as not worthy good members of civil society" and their previous memorials had been ignored or rejected by the government. They requested the removal of religious distinctions that privileged the Episcopal Church and a revision of the vestry and marriage laws, as did the Presbytery of Hanover in its extensive memorial on the detrimental impact of ecclesiastical privileges on religious liberty.¹¹⁸ In contrast to their memorial from October 24, 1776 where the Presbyters had focused on their theological and philosophical objections to the principle of a religious establishment, the authors of this petition were primarily concerned with the injustices of the establishment in practice. After expressing their disappointment at the

¹¹⁶ Warwick, May 15, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); *Journal of the House of Delegates* (Richmond: Nicolson and Prentiss, 1784) (Evans 18860), 9.

¹¹⁷ *Ibid.*, 30.

¹¹⁸ King and Queen, May 26, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); *Journal of the House of Delegates* (Richmond, 1784), 27.

nature of the Revolutionary settlement in Virginia which failed to meet their expectations of “an entire and everlasting freedom from every species of ecclesiastical domination; a full & permanent security of the unalienable rights of Conscience & private judgement; and an equal share in the protection and favor of Government to all denominations of Christians”, they listed their objections to the privileges that the Church of Virginia enjoyed as the established church, including preferential status in marriage and vestry legislation and the right to retain church buildings and glebe lands. The Presbyterians also focused on the issue of incorporation, the means by which the Church and its property was protected by the civil government.¹¹⁹ The petitioners objected to the security this offered to the Episcopalians, but, as Buckley demonstrates, the Presbyterians misunderstood the nature of incorporation and the limitations it placed on the Church of Virginia. The property of the Church was protected because it belonged to the state. The legislature did not secure the property *for* the Church; it secured its own and the Church remained subject to the regulation and authority of the civil magistrate, as the numerous petitions from congregants and vestrymen attested.¹²⁰ Protection came at a price: the Church was secured, but severely limited, in its ability to control its own affairs.

Unsurprisingly, this had become a source of discontent for some of the clergymen in the Church as they attempted to deal with the growing popularity of revivalism, the financial pressures created by the cessation of clerical salaries and the disruption of the War of Independence. On June 4, the House of Delegates received a petition from a convention of the

¹¹⁹ Miscellaneous, May 26, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹²⁰ Buckley, *Church and State*, 80.

Protestant Episcopal clergy in Virginia with the request that the legislature relax its control over the Church so that it might begin to recover and mount an effective defence against the forces of evangelicalism and religious apathy. The clergymen had gathered in Richmond two days previously of their own volition, without the sanction of either the ecclesiastical or civil authorities; such was the severity of the perceived crisis.¹²¹ The petition asked the legislature to repeal colonial legislation that prescribed the induction of ministers, the modes of faith and form of worship; incorporate the clergy of the Church and permit them to regulate the spiritual concerns of that body; secure ownership of church property and finally, restrict the responsibilities and membership of the vestries to ecclesiastical affairs and members of the Episcopal Church respectively.¹²²

The Committee of Religion responded to these three petitions favourably, but little progress was made on the legislative front. On June 8, Wilson Miles Cary informed the Assembly that the Committee had found the requests reasonable and draft bills were ordered; but, only a proposal for the incorporation of the Protestant Episcopal Church was put before the House and even this only made it as far as the second reading.¹²³ Judgement on this issue was postponed until the next session.

When delegates resumed their deliberations in the autumn of 1784, it was the issue of assessment, rather than incorporation, that dominated the debate on religion and its provision. In November and December, the House

¹²¹ *Ibid.*, 81.

¹²² Miscellaneous, June 4, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); *Journal of the House of Delegates* (Richmond: Nicolson and Prentis, 1784) (Evans 18860), 48.

¹²³ Believing that the Presbyterians had been requesting incorporation, the Committee of Religion resolved to offer the Presbyterian Church, and other interested religious society, incorporation. See *Journal of the House of Delegates* (Richmond: Nicolson and Prentis, 1784) (Evans 18860), 58, 79.

received thirteen petitions; seven of which were concerned, at least in part, with the prospect of a general assessment. The first, from Isle of Wight County, echoed the sentiments of previous pro-assessment petitioners about the duty of the civil magistrate to serve as a 'nursing father' to the churches and suggested that "whatever is to conduce equally to the advantage of all, should be borne equally by all".¹²⁴ The Assembly received another petition in favour of assessment from Amelia County four days later and then, on November 11, resolved:

[T]hat the people of this Commonwealth, according to their respective abilities, ought to pay a moderate tax or contribution annually for the support of the Christian religion, or of some Christian church, denomination, or communion of Christians, or of some form of Christian worship.¹²⁵

While Henry and his committee were drafting the relevant bill, the Assembly received an important petition from the Presbyterian Church. Like the petition received in May of that year, it did not affirm a position previously assumed by the Church; indeed, the signers firmly rejected any prospect of incorporation and offered their conditional support for a system of general assessment. Their legislative demands at this time were far removed from those in 1776, in large part because the position assumed by the Presbyterian Church was determined by the relative strength of factions within the presbytery. In a denomination defined by a court system of church government, it is not difficult to see why the Presbyterians were particularly susceptible to inconsistency in matters of church policy. In the autumn of 1784, the presbytery was divided between supporters of John

¹²⁴ *Journal of the House of Delegates* (Richmond: Nicolson and Prentis, 1784) (Evans 19353), 9.

¹²⁵ *Ibid.*, 17.

Blair Smith, president of Hampden-Sydney College and William Graham, president of Liberty Hall College. Smith was a close acquaintance of many liberal Episcopalians who had personally benefited from the financial assistance of the civil government and was therefore favourable to the introduction of an assessment, while Graham, who resided in a Presbyterian stronghold and therefore enjoyed some level of financial security, was strongly opposed to the proposal. Although both Smith and Graham had been given the responsibility of drafting a petition to the legislature, Smith and his allies controlled the presbytery and he was therefore in a better position to determine the character of the memorial.¹²⁶

The petition declared their opposition to the legislature's plan to incorporate the Presbyterian Church on the grounds that clergymen should not be separated from the congregation they served:

To form clergymen into a distinct order in the community & especially where it would possible for them to have the principal direction of a considerable public estate by such incorporation, has a tendency to render them independent at length of the churches whose Minister they are; and this has been too often found by experience to produce ignorance, immorality, and neglect of the duties of their Station.

Such a distinction was anathema to a church that held to the doctrine of the priesthood of all believers. However, it was not only the nature of the incorporation proposed by the legislature that offended the authors of this memorial; it was the very idea that the civil magistrate should assume any authority over the spiritual practices of the church.

Turning to the prospect of an assessment, the petitioners suggested that, since religion was "absolutely necessary to the existence & welfare" of

¹²⁶ Buckley, *Church and State*, 93-94.

men, the legislature had been wise to consider instituting a system of public support. However, the Presbyterians did not give the Assembly their unqualified approval. If such a bill was to be introduced, it should be consistent with the principles of the Declaration of Rights; it should not prescribe associated Articles of Faith; it should not interfere with the government of religious societies; it should not make clergymen independent of their congregation and above all, it should not undermine the political equality or liberty of conscience.¹²⁷

Although it did not accurately represent the divided opinion of the Hanover Presbytery, this petition marked a significant turnaround in the public position of the Presbyterian Church. It did not go unnoticed. With evident dismay, Madison reported to Richard Henry Lee that the recent success of the motion for introducing an assessment bill could be attributed to the formation of a coalition between the Presbyterians and Episcopalians in the Assembly. "They do not deny but rather betray a desire that an Assessment may be established", he wrote.¹²⁸ Madison predicted a schism in the Presbyterian Church over this issue and, though no such formal split occurred, communities in Presbyterian strongholds did not hesitate to distance themselves from the official position of the Presbytery.¹²⁹ Petitioners from Rockingham County attacked the assessment proposal in the same way that the Presbytery had attacked the incorporation proposal. They argued that it would make the clergy independent of their congregations and

¹²⁷ Miscellaneous, November 12, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹²⁸ 'James Madison to Richard Henry Lee, November 14, 1784' in *Jefferson and Madison on Separation of Church and State: Writings on Religion and Secularism*, ed. Lenni Brenner (Fort Lee: Barricade, 2004), 61. The letter is listed as "not found" in the *Papers of James Madison*. See Madison, *Papers*, Vol. VIII, 137.

¹²⁹ Buckley, *Church and State*, 97.

promote licentious behaviour among them.¹³⁰ Petitioners from Rockbridge County argued that a general assessment was unnecessary because Christianity did not depend on taxation for its propagation.¹³¹ Despite their resolute opposition to the proposed assessment bill, these petitioners were no match for the volume of public support garnered in favour of assessment. On November 20, the Assembly received petitions from the counties of Lunenburg, Mecklenburg, Amelia, and Halifax.¹³² These were followed on December 1 by petitions from Dinwiddie and Surry.¹³³ Although their reasoning varied to some degree, these petitioners were all firmly supportive of the legislature's intentions.

The momentum in favour of a general assessment was now clearly established both inside and outside the Assembly, but Madison was not willing to admit defeat. In the legislature, he delivered an extensive speech in which he distinguished between religion and religious establishments, countered many of the arguments presented by supporters of an assessment, and pointed to the difficulties of drafting a bill that would be agreeable to all of the religious societies in the state.¹³⁴ More significantly, he worked to ensure the removal of his key political adversary from a position of legislative power. Henry was a strong supporter of both incorporation and assessment who was able to wield a considerable degree of influence in the

¹³⁰ Rockingham, November 18, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹³¹ Rockbridge, December 1, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹³² *Journal of the House of Delegates* (Richmond: Nicolson and Prentis, 1785) (Evans 19353), 29.

¹³³ Dinwiddie, December 1, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Surry, December 1, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹³⁴ 'Madison's Notes for Debates on the General Assessment Bill', in Madison, *Papers*, Vol. VIII, 195-99.

chamber, in large part because of his impressive oratorical skills. On November 29, he was appointed to the governorship of Virginia and so, in the same way that Jefferson had been unable to defend his bill for religious freedom in 1779, Henry was prevented from ensuring the successful passage of the assessment bill being drafted by his committee.¹³⁵ The loss of Henry was compounded by the absence of Richard Henry Lee, a strong advocate for public support of religion, who was now serving as president of the Confederation Congress. In the removal of these two figures, supporters of assessment and incorporation lost critical sources of political leadership, power, experience and skill.

On December 22, a bill "for incorporating the Protestant Episcopal Church" was passed by the House of Delegates.¹³⁶ On November 17, the Committee for Religion had recommended the drafting of a bill to incorporate "all societies of the Christian religion", but this had been roundly opposed by leading Presbyterians, Smith and John Todd, who reiterated the position of the Hanover Presbytery in this matter.¹³⁷ The December bill was solely concerned with the former Church of Virginia and went some way towards responding to the May petition of the Protestant Episcopal Clergy, but it gave laymen more authority than the clergymen had envisioned in the creation of an ecclesiastical government with equal representation for ministers and members. Although the bill prescribed the corporate powers of the Church, voting procedures, the election of vestrymen and churchwardens, and other administrative matters, this

¹³⁵ *Journal of the House of Delegates* (Richmond: Nicolson and Prentis, 1784) (Evans 19353), 29.

¹³⁶ *Ibid.*, 75.

¹³⁷ *Ibid.*, 25; Miscellaneous, November 18, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

convention would be responsible for regulating “all the religious concerns” of the Church including matters of worship, doctrine, and discipline.¹³⁸

Madison voted in support of the bill, a surprising decision given his longstanding opposition to the practice and principle of a religious establishment. However, he did so reluctantly and under the belief that laymen were to have even greater representation in the convention and responsibility for the election of clergymen. Though dissatisfied with the legislation in its final form, he believed that some form of incorporation was necessary in order to manage the property of the Church and, more importantly, he believed that the successful passage of an incorporation act would dampen the determination of its supporters for a general assessment.¹³⁹

He was correct. The assessment bill was finally presented to the House for its approval that same day, and two days later a motion to postpone judgement on the measure was passed.¹⁴⁰ In the drafting committee and later in the Committee of the Whole, the original proposal had been subject to substantial revisions. No longer strictly concerned with the public support of religious worship, it was now entitled “A Bill establishing a provision for Teachers of the Christian Religion” and was primarily concerned with the civic benefits of religious education, specifically a Christian education. As Buckley argues “[w]hile the 1779 bill had been

¹³⁸ ‘An act for incorporating the Protestant Episcopal Church’, in *Statutes*, Vol. XI, ed. Hening, 532-537.

¹³⁹ ‘James Madison to James Madison, Sr., January 6, 1785’ in *Madison, Papers*, Vol. VIII, 217; ‘James Madison to Thomas Jefferson, January 9, 1785’ in *ibid.*, 228-29.

¹⁴⁰ Eight delegates who voted for incorporation voted to suspend judgement on the assessment bill; this was just enough to secure a postponement. See Buckley, *Church and State*, 109.

directly orientated toward the public worship of God, the 1784 proposal was concerned with the religious instruction of man".¹⁴¹

Reasoning that "a general diffusion of Christian knowledge hath a natural tendency to correct the morals of men, restrain their vices, and preserve the peace of society", the authors of the bill proposed a system of property taxation as a means of providing financial support to clergymen. Taxpayers would determine which church should benefit from their contribution and churches would be restricted to spending this income on their ministers and buildings. Quakers and Mennonites would be permitted to donate their money to a general fund in support of their society's activities since neither group had a formal clergy, while non-Christians and others who refused to specify a denominational preference would make a contribution to local schools.¹⁴² Anticipating the objections of dissenting groups, the authors argued that this system would not compromise the equality of Christian churches in the Commonwealth. Given the significance of this proposal in terms of the church-state settlement in Virginia, it is unsurprising that the Assembly encouraged delegates to ascertain the nature of public opinion on the matter by issuing each one with twelve copies of the proposal that could be circulated to their constituents during the adjournment.¹⁴³

In the remaining two weeks of the legislative session, the Assembly considered the ongoing controversy over marriage laws. Since the passage of the 1780 bill restricting officiators to licensed clergymen, the Baptists and

¹⁴¹ Buckley, *Church and State*, 108.

¹⁴² 'A Bill "Establishing a Provision for Teachers of the Christian Religion", 1784' in *ibid.*, 188-89.

¹⁴³ *Journal of the House of Delegates* (Richmond: Nicolson and Prentis, 1784) (Evans 19353), 79.

Presbyterians had been petitioning the Assembly for a more radical revision of the legislation. In late December, a bill “to regulate the solemnization of marriages” passed into law. It removed the former restrictions on the number of dissenting clergymen who could obtain a marriage license and permitted “any ordained minister of the gospel in regular communion with any society of christians” to perform the marriage rites, on the condition that he provided his ordination credentials; was in regular communion with his church; took the oath of allegiance to Virginia; and paid five hundred pounds for a testimonial from the county court. The Assembly approved all unions already solemnised and permitted Quakers and Mennonites to marry according to the custom of their societies, but, in a pointed slight to evangelical revivalists, made itinerant preachers ineligible for obtaining a testimony that would permit them to officiate.¹⁴⁴ The passage of this act was recognition of the religious pluralism that existed in Virginia and a significant step in the equalisation of religious sects. Although the exclusion of itinerant clergymen revealed an ongoing antipathy towards evangelicalism, it is clear that by 1784 the Baptists and Presbyterians were beginning to find some degree of political and social acceptance. Given their growing numbers, they were increasingly in a position to wield a considerable degree of political pressure and influence. The legislature would be forced to reckon with dissenting opinion once again when it came to consider the assessment bill the following year.

¹⁴⁴ ‘An act to regulate the solemnization of marriages’, in *Statutes*, Vol. XI, ed. Hening, 503-05.

The House of Delegates did not reconvene until October 1785. In the intervening months, delegates discussed the proposals both privately and publicly, interested parties submitted polemical essays to the press, and representatives from the major denominations met to establish a consensus of opinion and prepare a response for the legislature. Such was the intensity and volume of political activity that the substantive debate over the proposals took place outside the debating chamber; when the delegates took their seats in the autumn, the fate of the assessment bill had virtually been decided.

By March, copies of the bill had started to appear in the press and these were swiftly followed by denunciations of the proposals. 'Vigilarius' objected to the bill on both philosophical and practical grounds. Describing himself as an advocate of Christianity, he argued that religion did not require state support and that the imposition of a general assessment would convert clergymen into representatives of the civil government. Further to this, he suggested that the income generated would fluctuate according to state tax rates, thus providing clergymen with an unreliable salary; that the objectives of the bill could not be met because there was no provision for compulsory attendance at Sunday services; and that hostility would be created between religious societies in Virginia because some groups, namely the Quakers and Mennonites, were free to spend the money as they wished

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The growing tension between religious groups, or more specifically the Episcopalian Church and other denominations in the Commonwealth, was instrumental in creating opposition to the proposals. In a letter to

¹⁴⁵ Buckley, *Church and State*, 113-15.

Richard Henry Lee in February 1785, Edmund Pendleton had expressed his conviction that the passage of the incorporation bill and the proposal to extend incorporation to other willing Christian societies would not alarm other religious groups; an assessment that woefully underestimated the sensitivity of Virginia's dissenters to any development that privileged the Episcopal Church. Pendleton acknowledged the dissenters' suspicion that the incorporation and assessment bills were drafted as a means of reviving the former religious establishment, but he believed that this intention did not exist among Church members, "the clergy and a few monarchy men excepted".¹⁴⁶ His optimistic, even naïve, appraisal of the dissenters' response and the unity of the Episcopalian membership in February 1785 was seriously challenged by events surrounding the meeting of the first Episcopal Convention in Richmond in May. Although the incorporation bill had provided for one clerical and one lay representative, laymen outnumbered ministers by almost two to one. A number of the laymen in attendance were also members of the legislature, including Randolph and Braxton; though it was hardly surprising given the number of churchmen in the Assembly, it was a deeply offensive signal to some dissenting groups. The Convention attempted to improve the public image and reputation of the Church by declaring its desire to form closer associations with other Christian groups in the Commonwealth, but dissenters were not impressed with this display of ecumenical fervour. To them, the decision to meet in the capitol and invite leading members of the government to participate in proceedings was a clear sign that "this group of men considered themselves

¹⁴⁶ Edmund Pendleton, *The Letters and Papers of Edmund Pendleton, 1734-1803*, Vol. II, ed. David John Mays (Charlottesville: University Press of Virginia, 1967), 474.

to represent not merely one Christian church within a pluralistic society but the dominant religious body in Virginia".¹⁴⁷ In this, dissenters saw a clear correlation between the recent bills on religion and a particular attachment to the Episcopal Church. As Madison wrote in a letter to Jefferson: "The mutual hatred of these sects has been much inflamed by the late act of incorporating the [Episcopal Church]".¹⁴⁸ The assessment bill increasingly came to be viewed as an instrument for re-establishing the Church's political and ecclesiastical pre-eminence. In August, a General Convention of Presbyterians was assembled at which a petition opposing the Assembly's recent legislation was drafted. The position they adopted was far closer to that articulated by the Hanover Presbytery in 1776 than in 1784. The authors avoided any mention of the state's responsibility for religious provision and suggested instead that the assessment bill was a violation of the religious liberty enshrined in the Declaration of Rights. The petitioners argued that the bill, together with that for incorporation, laid the groundwork for the reinstatement of the Episcopal Church as the state church of Virginia.¹⁴⁹

The Episcopalians were the only denomination in favour of a general assessment. They had been supported by the Presbyterians in the previous legislative session, but, by the time they gathered in Richmond for the Convention, the informal coalition was in tatters.¹⁵⁰ Despite their numbers,

¹⁴⁷ Buckley, *Church and State*, 127.

¹⁴⁸ 'James Madison to Thomas Jefferson, August 20, 1785' in Madison, *Papers*, Vol. VIII, 345.

¹⁴⁹ Miscellaneous, November 2, 1785, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹⁵⁰ At a meeting of the Hanover Presbytery in May 1785, clergymen received a petition of complaint from Augusta County demanding an explanation for the position assumed in the most recent memorial to the Assembly in November 1784. The members subsequently declared their unanimous opposition to the assessment bill. See Buckley, *Church and State*, 137. The implications for this turnaround did not go unnoticed by observers. In a letter to Jefferson, Madison reported that "[t]he Presbyterian clergy have at length espoused the side of the opposition, being moved either by a fear or their laity or a jealousy of the

the Episcopalians were unable to mount an effective campaign in support of the measure. Aware of the longstanding antipathy towards them and the growing opposition to the assessment bill, they were reluctant to attract further criticism by issuing a strong defence of the general assessment. However, the Church was not only battling opposition from without; it was also weakened from division within. By the time the Convention assembled, the evangelical wing of the church had already separated from the main body and constituted itself as the Methodist Episcopal Church. Although previously aligned with the religious establishment, they now joined the ranks of opposition to the assessment bill in 1785.¹⁵¹ Pendleton believed that churchmen were of one voice in their defence of the incorporation act, but the debates in the Convention demonstrated that there were profound, and damaging, disagreements over doctrine, liturgy and procedures. This occupied most of the delegates' attention, leaving little time for them to discuss the assessment bill. In their final report to the membership, the Convention made no mention of the proposals. A collective statement on this matter would have provided the legislature with a useful defence, but none was forthcoming.

By contrast, the opponents of the bill used the legislative recess of organise an effective response to the proposals. In August, the General Committee of Baptists met in Powhatan County and drafted a petition to the legislature expressing their opposition to the assessment bill. Unlike the Presbyterians, the Baptists had been consistently opposed to any form of

episcopalians...I am far from being sorry for it as a coalition between them could alone endanger our religious rights and a tendency to such an event had been suspected. See 'James Madison to Thomas Jefferson, August 20, 1785', in Madison, *Papers*, Vol. VIII, 345.

¹⁵¹ Buckley, *Church and State*, 119.

government involvement in religious affairs since the earliest days of the church-state debate. This memorial reiterated previous arguments about the limited purview of the legislature and the threat posed to religious liberty by civil interference, but suggested that the government consider "Laws of Morality" if it was concerned with the virtue of Virginia's citizens.¹⁵²

The petitions drafted by dissenting assemblies were an important arsenal in the battle to defeat the assessment bill, but the most significant memorial of this period was penned by James Madison.¹⁵³ Encouraged by George Nicholas to participate in the public debate after confining his involvement to private correspondence, the resulting *Memorial and Remonstrance against Religious Assessments* examined the arguments against the introduction of an assessment in fifteen points. Although anonymous, it was the fullest exposition of Madison's thinking on church-state issues to date and revealed both the deep-seated philosophical reasons behind his longstanding opposition to any kind of civil involvement in religious affairs and a remarkable ability to tailor his argument to appeal to as broad an audience as possible. Though driven by an exposition on natural rights that would resonate with enlightened rationalists in Virginia, his argument also included a pietistic justification for his position that would have found support amongst the evangelical groups in the Commonwealth.

Madison had been baptised into the Anglican Church and raised in an Anglican family, but he was never confirmed and never identified himself as

¹⁵² Powhatan, August 13, 1785, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>)

¹⁵³ The significance of the *Memorial and Remonstrance* is derived from the political importance of its author, rather than the popularity of the document itself. Around 1500 Virginians eventually signed it, but this was less than one-fifth of the total number of signatories on anti-assessment petitions. See James H. Hutson, *Forgotten Features of the Founding: The Recovery of Religious Themes in the Early American Republic* (Lanham: Lexington Books, 2003), 171

an Episcopalian.¹⁵⁴ He was educated by Presbyterian clergymen, most notably John Witherspoon at the College of New Jersey. He briefly considered becoming a minister, and studied both Hebrew and theology at college. Although a passionate believer in the cause of religious liberty, he very rarely wrote about religion itself and so his personal convictions have been very difficult to ascertain. Irving Brant argues that he was a deist, whereas Lance Banning suggests that he was a rational Christian, at least until around this time.¹⁵⁵ He maintained an interest in religion and religious subjects, but it seems reasonable to suggest that his own religious beliefs had little to do with his perspective on church-state issues, unlike the Baptists and Presbyterians with whom he allied himself during this struggle.¹⁵⁶

The *Memorial and Remonstrance* was "eclectic rather than inventive, an effort...to express the general understandings of the age".¹⁵⁷ It was a consolidation of anti-establishment opinions and ideas stretching back to the earliest days of the struggle in Virginia and further beyond. As Jefferson had been in drafting the Bill for Religious Freedom, Madison was particularly indebted to John Locke and his treatises on government and toleration.¹⁵⁸

The memorial began with a reference to Virginia's Declaration of Rights; a popular tactic amongst petitioners aiming to situate their demands within the context of the Commonwealth's republican settlement.

¹⁵⁴ His father, like Jefferson's, was a vestryman and his mother was known for her religious devoutness. See Holmes, *Faiths of the Founding Fathers*, 92, 94; Lance Banning, *The Sacred Fire of Liberty: James Madison and the Founding of the Federal Republic* (Ithaca; London: Cornell University Press, 1995), 80.

¹⁵⁵ Brant, *James Madison*, Vol. I, 118; Banning, *Sacred Fire of Liberty*, 80, 430.

¹⁵⁶ He provided Jefferson with a substantial list of books on theology for the library at the University of Virginia when requested to do so. See Holmes, *Faiths of the Founding Fathers*, 93.

¹⁵⁷ Banning, *Sacred Fire of Liberty*, 91.

¹⁵⁸ See Sanford Kessler, Locke's Influence on Jefferson's "Bill for Establishing Religious Freedom", *Journal of Church and State*, 25 (1983) for a detailed exposition of the philosophy underpinning the statute.

Emphasising the “inalienable” nature of religious liberty, Madison argued that free religious practice was both a natural right and a duty to God. Matters of conscience could not be prescribed because they related to the private opinions of individuals and individuals were ultimately answerable to their creator.

Once again recalling America’s revolutionary experience, Madison suggested that an unwillingness to accept the establishment of Christianity in Virginia was analogous to the colonists’ unwillingness to accept the initial encroachments of the British parliament on the liberty of Americans. The consequences of accepting this first development would be devastating: having given the legislature the authority to establish one religion in Virginia, how could the people prevent the government from establishing one sect as the only true church in later years? In Madison’s words:

Who does not see...that the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?

Madison argued that men had been created equal and therefore were entitled to an equal degree of religious liberty, regardless of their religious beliefs, or lack thereof. In his unwillingness to provide exceptions to this rule, Madison went further than Locke had ever been willing to go. The English philosopher had been firmly convinced that toleration should not be extended to atheists. Madison also expressed his opposition towards exceptions made for Quakers and Mennonites, arguing that these exceptions were “extraordinary privileges”. In his accusations of discrimination, Madison seems to have misinterpreted the bill, but it is quite possible that he

deliberately misrepresented its provisions in order to emphasise his broader political point.¹⁵⁹

With an attack on the intention of the civil magistrate to determine religious truths as either “an arrogant pretension falsified by the contradictory opinions of Rulers in all ages” or “an unhallowed perversion of the means of salvation”, Madison turned his attention away from Locke and natural rights to the theological justifications for his position. Most of the arguments presented in the second half of the memorial would have been very familiar to dissenting petitioners since they had been regularly presented in memorials to the legislature since the beginning of the debate over the religious settlement in Virginia. Madison argued that Christianity was not dependent on the state for its survival; that civil government was not dependent on religion; and that establishments corrupted religion, clergymen and citizens. Returning to a longstanding conviction about the consequences of a religious establishment, Madison suggested that an assessment would discourage immigration and encourage emigration. Finally, he argued that the introduction of this bill would be an illiberal imposition on the Virginian people since the level of opposition to the measure was so great. Its successful passage would discredit the government and undermine respect for the law.¹⁶⁰

¹⁵⁹ Buckley, *Church and State*, 133-34.

¹⁶⁰ ‘Memorial and Remonstrance against Religious Assessments’, in Madison, *Papers*, Vol. VIII, 298-304.

In the opening six weeks of the new legislative session in 1785, the House of Delegates received a flood of religious petitions, over one hundred in total. Like Madison's *Memorial*, most of these petitions presented familiar arguments. After nine years of public debate over the issue of a general assessment, there was very virtually no new ground to cover. Unsurprisingly, given the direction of public opinion during the legislative recess, the vast majority of petitions were opposed to the bill for assessment.

A significant portion of these petitions fell into one of three categories.¹⁶¹ The first group were copies of Madison's remonstrance that had been circulated in parts of the Northern Neck and central Piedmont area by George Nicholas and George Mason. The second group were copies of a petition from an undisclosed author, submitted from central and southern parts of the state.¹⁶² The author was opposed to the bill primarily on religious grounds: he argued that God had "maintained and supported his Gospel in this world for Several hundred years" without the support of the civil authorities and rejected the belief that government was dependent on religion for its support. Pennsylvania had no religious establishment, yet its government was stable and no other neighbouring state had "better Members or brighter Morals, and more up right Characters". He refuted the common assumption that "the want of religious Establishment" was to blame for religious apathy and the spread of deism with its "baneful Influence". Instead of passing laws interfering with religious provision, the legislature should focus its efforts on punishing "the Vices and Immoralities

¹⁶¹ See Buckley, *Church and State*, 146-152 for detailed breakdown of these petitions.

¹⁶² Buckley suggests that Baptists drafted this petition since it reflected many of their concerns, including the dangers of an unconverted ministry. See Buckley, *Church and State*, 149.

of the Times". If government officials were faithful men "who by their Example shall recommend religion", and if ministers were called to office by the Holy Spirit and led upright lives, then the author believed that religion would once again flourish. Compelling citizens to support religious teachers, even of their own church, was not the answer and would be "sinful and tyrannical".¹⁶³

The third group of petitions were those from religious groups. In addition to the memorials drafted by the Presbyterians and Baptists during the summer, the Quakers also expressed their objections about the assessment bill to the legislature. Previous memorials had been concerned with matters of particular importance to the Society of Friends, like bearing arms or swearing oaths, for which sympathetic legislation had often been passed; but this was really the first time that Quakers had petitioned the legislature on the principle of religious freedom.¹⁶⁴ Presenting their case in terms that were both generically Christian and specifically Quaker, they

¹⁶³ Westmoreland, November 2, 1785, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>). See also Goochland, November 2, 1785, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) and Brunswick, November 9, 1785, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for further examples of this petition.

¹⁶⁴ See Miscellaneous, November 17, 1778, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting an exemption from bearing arms and taking oaths. See Frederick, June 12, 1784, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for a petition requesting an exemption from militia duty. The House of Delegates was sensitive to the "conscientious scruples" of the Quakers. In 1779 the Assembly passed a law allowing those with religious objections to use "solemnity and ceremony" in place of oaths. See 'An Act permitting those who will not take oaths to be otherwise qualified', in *Statutes at Large*, Vol. X, ed. Hening, 28. In 1783, the Assembly repealed the law that penalised Quakers for refusing to take the oath of allegiance. See 'An Act to repeal so much of any act or acts of assembly as subject the people called quakers and menonists to penalties or disabilities for non-juring', in *Statutes at Large*, Vol. XI, ed. Hening, 252. In 1784, the Assembly passed a law excusing Quakers from attending musters. See 'An act to exempt Quakers from attending musters', in *ibid.*, 389.

rejected the argument that providing financial support to clergymen would promote the spread of Christianity:

This your Memorialists apprehend to be directly Contrary to the doctrine of our Saviour. 'Freely ye have Received, freely give'. And Inconsistent with their Belief, as held forth to the World, ever since they became a Religious Society, Viz, that Christian Knowledge is Immediately derived from the great Author of the Christian Religion, and is no more dependent on Human Literature, or ... Provisions for learned Teachers, Than that the Salvation of Souls depend on Human learning and Knowledge.

The petitioners acknowledged the accommodations the legislators had made on their behalf in drafting the bill, but declared that "as that Bill is grounded in principles they cannot Adopt, without using Violence to the Convictions and Tender Scruples of their own minds", they had no option, but to "signifie [sic] their entire disapprobation of it". They considered the bill to be an infringement of the liberties enshrined in the Declaration of Rights and suggested that its passage would create suffering in both their own society and the community at large".¹⁶⁵

Those who supported a general assessment did not enjoy the same level of active support from the religious community: the Episcopalians were the only denomination to favour the proposals and only one petition from this church was submitted to the legislature in the autumn of 1785.¹⁶⁶ All in all, the Assembly received only eleven pro-assessment petitions and these came from counties in the lower Northern Neck and Southside.¹⁶⁷ Signatories commended the legislature on the proposal and maintained that religion was important for the promotion of virtue and morality in society. They

¹⁶⁵ Miscellaneous, November 14, 1785, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹⁶⁶ Southampton, December 10, 1785, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

¹⁶⁷ Buckley, *Church and State*, 145.

suggested that the voluntary system had not been effective and that a more formal system of support for religious provision was necessary. Petitioners refuted accusations that the bill was an attempt to create a new religious establishment in Virginia: they argued that it was nonpreferential and therefore did not privilege any Christian society over another. It would promote religion and its good effects without threatening liberty of conscience.

Economic pressures that prevented the government from collecting its taxes would have made the bill inoperative at this time, but the strength of opposition, together with the lack of effective support, killed the proposal in its entirety.¹⁶⁸ Madison took this opportunity to reintroduce Bill 82, Jefferson's 1779 statute for establishing religious freedom in Virginia on December 14.¹⁶⁹ Unsurprisingly, it met with some opposition from supporters of the Episcopalian Church and the recent assessment bill. A proposal was made to alter the wording of the preamble so that the reference to the "holy author of our religion" specifically mentioned Jesus Christ. However, perhaps mindful of the controversy that had been created by Harrison's proposal to limit beneficiaries of the assessment bill to Christian churches, the Assembly rejected it. Another proposal was made to replace the entire preamble with the sixteenth article of the Declaration of Rights, but this was roundly defeated. Despite the best efforts of opponents to stall a final vote on the bill until the next session, it was passed the following day and was sent to the Senate for approval.

¹⁶⁸ Ibid., 153-55.

¹⁶⁹ The petition received in November 1785 from the Presbytery of Hanover specifically requested the reconsideration of Jefferson's statute and Madison used this as a means of justifying its inclusion in the raft of dormant bills under consideration. See 'James Madison to Thomas Jefferson, January 22, 1786' in Madison, *Papers*, Vol. VIII, 474.

The Senate approved the bill but passed one substantial amendment: the replacement of the preamble with the sixteenth article of the Declaration of Rights. The upper house was dominated by aristocratic conservatives with a firm attachment to the religious establishment and it was therefore hardly surprising that it sided with the churchmen in the lower house of the legislature. When the bill was returned to the House, delegates once again rejected the amendment and the Senate subsequently refused to approve their decision. After a conciliatory meeting between representatives of the two houses at which the Senate's amendment was revised, delegates considered the bill for a final time on January 16, 1786. A request to remove sentences that were deemed too deistical was approved and, with reluctance, Jefferson's declaration that "the religious opinions of men are not the object of civil government, nor under its jurisdiction" was also removed. Although it provided a critical justification for the legislation, Madison knew that any further delay over this issue would threaten the passage of the bill in this session and therefore he approved its deletion, like other supporters of the statute.¹⁷⁰ The remainder of the bill was sufficiently far-reaching to ensure the establishment of full religious liberty in Virginia.¹⁷¹ In a letter to Jefferson, now serving as the U.S. minister to France in Paris, Madison expressed his great satisfaction that the bill "ha[s] in this Country extinguished forever the ambitious hope of making laws for the human mind".¹⁷² The government would henceforth be unable to prescribe religious doctrine, compel citizens

¹⁷⁰ Ibid.

¹⁷¹ See 'An act for establishing religious freedom', in *Statutes at Large*, Vol. XII, ed. Hening, 84-86.

¹⁷² 'James Madison to Thomas Jefferson, January 22, 1786' in Madison, *Papers*, Vol. VIII, 474.

to attend worship services, institute any form of general assessment or discriminate on the basis of religious profession.

The passage of Jefferson's bill, however, did not immediately establish the separation of church and state in Virginia. The legislature had recently passed a law that stripped the vestries of their secular responsibilities, such as poor relief, but the Protestant Episcopal Church remained the incorporated church of Virginia.¹⁷³ In the summer of 1786, the Baptists held a meeting of their General Association at which they resolved to submit a petition to the legislature arguing that the incorporation act was "the foundation of Ecclesiastical Tyranny, and the first step towards an Inquisition". The petitioners declared:

New Testament Churches, we humbly conceive, are, or should be, established by the Legislature of Heaven, and not earthly power; by the Law of God, and not the Law of the State; by the Acts of the Apostles, and not by the Acts of an Assembly.

They therefore suggested that the 1784 act showed "great contempt upon the divine Author of Our Religion" and demanded that the Assembly both repeal the legislation and turn the property of the Church over to the people of Virginia for their common use.¹⁷⁴

Aware that they were now directly under attack from dissenters and others opposed to the Church, the Episcopalians responded quickly and with indignation to suggestions that their relationship with the civil

¹⁷³ See 'An act to provide for the poor of the several counties within this commonwealth' in *Statutes at Large*, Vol. XII, ed. Hening, 27-30.

¹⁷⁴ Miscellaneous, November 1, 1786, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>). See also Orange, November 1, 1786, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); Spotsylvania, November 1, 1786, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>); King and Queen, November 1, 1786, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>) for other petitions submitted on this date in favour of a repeal of the incorporating act.

magistrate should be altered, or that their property should be removed. At their Convention in May 1786, they drafted a memorial defending their status and this was followed in the autumn of that year by a raft of petitions from Episcopalian congregations.¹⁷⁵ Episcopalians declared that “strange fears have been excited for the safety & independence of the other Christian churches” and refuted the accusation that incorporation created an “exclusive Establishment” on the grounds that they wished to see every Christian society incorporated under the same terms.¹⁷⁶

The principal point of contention for advocates of repeal was the ownership of church buildings and glebe lands. Dissenters argued that they were public property and therefore should be seized, sold and the income generated put to public use. Members of the Episcopal Church, appointed to a standing committee by the House of Delegates, maintained that the property was private and therefore should not be subject to public seizure. The legislature agreed. In January 1787, the legislature passed a bill revoking the incorporating act of 1784.¹⁷⁷ It was a compromise measure, designed to satisfy the demands of both dissenters and churchmen. The Episcopal Church was now free, like any other religious society in Virginia, to manage its own affairs without interference from the legislature. Its relationship with the civil magistrate had been terminated and all religious societies in the state would henceforth be on an equal footing. However, in “[s]aving to all religious societies the property to them respectively belonging”, the bill also

¹⁷⁵ Miscellaneous, November 10, 1786, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>). Several petitions from members of the Episcopal Church were received on this day.

¹⁷⁶ Ibid.

¹⁷⁷ ‘An act to repeal the act for incorporating the Protestant Episcopal Church and for other purposes’, in *Statutes*, Vol. XII, ed. Hening, 255-56.

protected the property rights of the Church. Neither the glebe lands nor the church buildings would be assumed and sold by the state. The Baptists and Presbyterians were unsurprisingly deeply unhappy with the legislature's decision on this matter and petitioned the Assembly accordingly.¹⁷⁸ However, the political will to revise the religious settlement of the commonwealth had now been expended and their appeals fell on deaf ears.

The repeal of the incorporating act marked an end point in the protracted process of establishing church-state relations that reflected the demands of the Revolution and the religious pluralism that was now a feature of society in the Old Dominion. The controversy over glebe lands would continue into the nineteenth century, but, for the time being, Virginians had settled the debate over the nature of religious liberty in a free republic. Evangelicals and rationalists had successfully fought to ensure that the principle was interpreted as broadly as possible: that the state would not prescribe religious opinions or regulate religious activities and that the government would not privilege one religious society, or its members, over the others. It was not an interpretation shared by all Americans; legislators in Massachusetts wrestled with the same questions and the same demands from dissenters, but established a very different relationship between church and state in the early years of independence.

¹⁷⁸ Miscellaneous, October 31, 1787, Early Virginia Religious Petitions, American Memory from the Library of Congress (<http://memory.loc.gov/ammem/collections/petitions>).

**"It is the right as well as the duty of all men....to worship the
Supreme Being": Church and State in Massachusetts, 1778-1780**

After the dissolution of the General Court and the removal of British authority in September 1774, Massachusetts entered a period of constitutional instability. Initially governed by a succession of Provincial Congresses between October 1774 and July 1775, it reverted to its colonial charter on the advice of the Continental Congress at the close of the Third Provincial Congress; a move deeply unpopular with the Constitutionals who argued that the government had no legitimacy because the people had not been consulted.¹ A petition from Pittsfield to the House of Representatives in December 1775 expressed the despair of the townspeople over the implementation of a royal charter that had always been "lame & essentially defective" and now threatened to endanger the people by returning them to "a Yoke of Oppression".² They requested a new form of government in its place, one that was agreeable to the Continental Congress "& no more of our antient [*sic*] form be retained than what is Just & reasonable". They hoped that in this new constitution "regard will be had for such a broad Basis of Civil & religious Liberty as no Length or Time will corrupt & will endure as long as the Sun & Moon shall endure".³ Conscious

¹ Robert J. Taylor ed., *Massachusetts, Colony to Commonwealth: Documents on the Formation of Its Constitution, 1775-1780* (Chapel Hill: University of North Carolina Press for the Institute of Early American History and Culture, 1961), 13.

² Under the provisions of the Charter, members of the General Court were elected, but the twenty-eight councillors were appointed by the Court. The Court also assumed the executive position since there was no royal governor or lieutenant-governor. The citizens of Pittsfield demanded the "privilege of electing [their] Civil & military officers".

³ 'Petition of Pittsfield, December 26, 1775' in *Colony to Commonwealth*, 18, 19.

of the growing suspicion and antipathy from citizens like the Constitutionalists, the Great and General Court issued a proclamation calling for loyal support in January 1776. In an attempt to dissolve fears of tyranny and re-establish the republican credentials of the legislative body, the Court reaffirmed the sovereignty of the people and reminded them of the extraordinary circumstances behind the return to a charter government:

It is the will of Providence, for wise, righteous and gracious end, that this Colony should have been singled out, by the enemies of *America*, as the first object both of their envy and their revenge, and, after having been made the subject of several merciless and vindictive statutes (one of which was intended to subvert our Constitution by charter,) is made the seat of war.⁴

The proclamation reminded the people of the difficulties faced by the Great and General Court and the importance of their support and loyalty to the war effort. To this end, the government instructed the people to:

lead sober, religious, and peaceable lives, avoiding all blasphemies, contempt of the holy Scriptures, and of the Lord's day, and all other crimes and misdemeanours, all debauchery, profaneness, corruption, venality, all riotous and tumultuous proceedings, and all immoralities whatsoever; and that they decently and reverently attend to the publick [*sic*] worship of God, at all times acknowledging, with gratitude, his merciful interposition in their behalf, devoutly confiding in him, as the God of armies, by whose favor and protection, alone, they hope for success in their present conflict.⁵

The Court here seems to be suggesting that if the people and their leaders, political, military and religious, kept their focus on God and His will, they would be working towards a common goal and could therefore avoid the conflict and dissension of recent months. Civil obedience could be manifested in spiritual devotion.

⁴ 'Proclamation of the General Court, January 23, 1776' in *Colony to Commonwealth*, 20.

⁵ *Ibid.*, 21-22.

Over the next five years, the House of Representatives made three attempts to frame a new constitution for the Commonwealth. In September 1776, it requested the permission of freeholders to draft a new frame of government, but the appeal was rejected on the basis that wartime difficulties precluded such an endeavour and the existing General Court was unsuitable for the role: the freeholders of the towns wanted the people to be more directly involved.⁶ With this in mind, the House asked towns to give their representatives the necessary authority to frame a new constitution at the next round of elections. In June 1777 the General Court appointed a committee to frame a constitution and over the next nine months it sat as a constitutional convention from time to time. A constitution was produced in February 1778 and sent to the towns for their approval.⁷ It limited officeholding and the "free exercise and enjoyment of Religious profession and worship" to Protestants in the state, and as such "maintained the New England way" in its treatment of Catholics.⁸ Critically, no bill of rights was provided.

The constitution was overwhelmingly rejected. From town meetings across Massachusetts, selectmen sent the legislature their response to the constitution. Though most of the objections related to the purely political

⁶ The towns were not opposed to the principle of a new constitution, simply the context in which its framing was proposed. The people of Boston and Attleborough argued that people needed to be better consulted or better represented than they were at present if a constitution was to be drafted. Concord argued that a separate constitutional convention was required, since a body which framed the constitution should not then be subject to its provisions: it was important to separate the power to draft a constitution from legislating. See 'From the Return of Boston (Suffolk County), 1776' in *Colony to Commonwealth*, 44; 'The Return of Attleborough (Bristol County), October 28, 1776' in *Colony to Commonwealth*, 44; 'The Return of Concord (Middlesex County), October 22, 1776' in *Colony to Commonwealth*, 45.

⁷ Ronald M. Peters, Jr., *The Massachusetts Constitution of 1780: A Social Compact* (Amherst: University of Massachusetts Press, 1974), 17-18.

⁸ 'The Constitution of 1778' in *Colony to Commonwealth*, 58; Francis D. Cogliano, *No King, No Popery: Anti-Catholicism in Revolutionary New England* (Westport; London: Greenwood Press, 1995), 114.

provisions of the document, there was some objection to the religious settlement articulated in the constitution. While one commentator argued that religious freedom should be further limited to Congregationalists, other citizens argued that the constitution was too restrictive.⁹ The people of Mendon in Worcester County objected to the framers' silence on the payment of taxes for the support of Congregational ministers: they argued that men should not be compelled to "Support a Worship that is not agreeable to the Dictates of his own Conscience and way of thinking in matters of Religion [sic]".¹⁰ The towns of Lexington, Westminster, and Brookline all called for a bill of rights to accompany the constitution, as did the towns of Essex County. In a detailed return that took exception to most of the provisions proposed, the people of Essex argued that "a bill of rights, clearly ascertaining and defining the rights of conscience...ought to be settled and established, previous to the ratification of any constitution for the State".¹¹ They also complained that "the rights of conscience, and the security of person and property each member of the State is entitled to, are not ascertained and defined in the Constitution" and objected to the thirty-fourth article that outlined the protection of religious liberty because:

[T]he rights of conscience are not clearly defined and ascertained; and further, because the free exercise and enjoyment of religious worship is there said to be allowed to all the protestants in the State, when in fact, that free exercise and enjoyment is the natural and uncontrollable [sic] right of every member of the State.¹²

⁹ Coglian, *No King, No Popery*, 115.

¹⁰ 'Return of Mendon (Worcester County), May 21, 1778' in *Colony to Commonwealth*, 63

¹¹ 'Return of Lexington (Middlesex County), June 15, 1778' in *Colony to Commonwealth*, 66-67; 'From the Return of Westminster (Worcester County), June 9, 1778' in *Colony to Commonwealth*, 69; 'Return of Brookline (Suffolk County), May 21, 1778' in *Colony to Commonwealth*, 70; 'From the Essex Result, 1778' in *Colony to Commonwealth*, 73.

¹² 'From the Essex Result, 1778' in *Colony to Commonwealth*, 73, 74.

Citizens in this county were very concerned that the rights of the people had not been properly articulated and that the article relating to religious liberty was “expressed in very loose and uncertain terms”. Though they complained about the lack of definition and precision in other parts of the constitution, it was a particularly problematic issue when applied to an article on religion, because “[w]hat is a religious profession and worship of God, has been disputed for sixteen hundred years, and the various sects of christians have not yet settled the dispute”. Nor had they settled on a definition of “free exercise and enjoyment”. The people of Essex took issue with the language of article thirty-four which “allowed” the free exercise of profession and worship; they argued that it was “an unalienable right of all mankind, which no human power can wrest from them”.¹³ With this endorsement of natural rights as the basis of religious liberty, citizens of this county suggested that constitutional freedoms and protections should go far beyond that which had been offered by the framers or suggested by other towns. They argued that freedom of conscience and religious worship should be extended not simply to Protestants, or even Christians, but to men of all and no religious persuasion. It was not a privilege to be granted by the civil authority, but a natural right to be exercised at will. At this time, in this state, it was not a position many others were willing to take: overall, there was limited opposition to the sectarian nature of the constitution.¹⁴

¹³ Ibid., 86.

¹⁴ Cogliano, *No King, No Popery*, 116.

On June 15, 1779 the General Court called a convention for the purpose of drafting a new constitution for Massachusetts. Heeding complaints about the restrictive and unrepresentative nature of previous attempts to frame a constitution, participation was open to all men over the age of twenty-one, with no property qualifications, and citizens from every town in Massachusetts were to be represented.¹⁵

On September 1, the convention assembled in First Church in Cambridge. Twenty-one clergymen participated in the proceedings.¹⁶ Some towns sent their representatives to the convention with instructions, which invariably demanded the protection of individual rights.¹⁷ The town of Pittsfield instructed its representatives to ensure that “all those unalienable and important rights which are essential to our true liberty, and form the basis of government in a free State, shall be inserted”. Amongst these should be a declaration that:

[E]very man has an unalienable right to enjoy his own opinion in matters of religion, and to worship God in that manner that is agreeable to his own sentiments without any control whatsoever, and that no particular mode or sect of religion ought to be established, but that every one be protected in the peaceable enjoyment of his religious persuasion and way of worship.¹⁸

The town of Gorham demanded that “no Qualification be required of any officer or Ruler but merit”, in other words, that no religious test should be provided for officeholders. They also requested that “no Restriction be lade

¹⁵ ‘The General Court issues a Call for a Convention, June 1779’ in *Colony to Commonwealth*, 117.

¹⁶ Peters, *Massachusetts Constitution*, 26.

¹⁷ Since only a few sets of instructions are available, it is not possible to generalise too far about the demands of citizens across the state; however, most of those that do remain express concern for the protection of individual rights. Taylor, *Colony to Commonwealth*, 112.

¹⁸ ‘The Instructions of Pittsfield, 1779’ in *Colony to Commonwealth*, 118.

on any Profession of Christianity or denomination of Christians, but all Equally intituled [sic] to protection of the Laws".¹⁹

Baptist delegates also took a keen interest in the issue of a Bill of Rights. Noah Alden, elected to the convention by the townsmen of Bellingham in Maine, wrote to Isaac Backus in July 1779 expressing his belief that it was:

Esentially nesasary that in the first place thare should be a bill of Rightes ascertaining what are the natuearal sivel and Religous Rights of the people and a form of government pred[i]cated upon said bil of rights perfectly agreabel thare to and Never know laws afterwards made Repugnant unto said Bill of Rights [sic].²⁰

Concerned that many delegates would not share his conviction and that he would be incapable of mounting an effective case, Alden asked Backus for his thoughts and advice on the matter. Backus responded by drafting a list of rights that ought to be protected under the new constitution for Massachusetts. Familiar with the work of Mason and Madison in enumerating the liberties of citizens in the Old Dominion, Backus borrowed extensively from the Virginia Declaration of Rights. His Declaration contained thirteen articles, the second of which related to the protection of religious liberty:

As God is the only worthy object of all religious worship, and nothing can be true religion but a voluntary obedience unto his revealed will, of which every rational soul has an equal right to judge for himself; every person has an unalienable right to act in all religious affairs according to the full persuasion of his own mind, where others are not injured thereby. And civil rules are so far from having any right to empower any person or persons, to judge for others in such affairs, and to enforce their judgements with the sword, that their power ought to be exerted to protect all persons and societies, within their

¹⁹ 'The Instructions of Gorham (Maine), 1779' in *Colony to Commonwealth*, 120.

²⁰ Isaac Backus, *The Diary of Isaac Backus*, Vol. II, ed. William G. McLoughlin (Providence: Brown University Press, 1979), 1026-27.

jurisdiction from being injured or interrupted in the free enjoyment of this right, under any pretence whatsoever.²¹

Mason was explicit in his conviction that men had a duty to worship God where Backus was implicit, but the Baptist leader did echo the Virginian's declaration that men must decide themselves to worship God rather than being compelled to do so. Both believed that personal conviction should be the only influence and guide in determining religious devotions and furthermore that this decision should be the considered opinion of individuals: while Backus prioritised "the full persuasion of [the] mind", Mason suggested that only "reason and conviction" should be permitted to govern the religious practices of citizens of a free republic. Backus did not deviate extensively from the final draft of article sixteen in the Virginia Declaration; both documents protected freedom of conscience and the free exercise of religion. However, Backus' language and tone differed significantly from that of Mason and Madison. William McLoughlin argues that the revisions Backus made to the original document "reveal the difference between the deistic or latitudinarian Anglican Lockeanism of Madison and Mason and the evangelical Lockeanism of the Baptists".²² While the Virginia Declaration simply stated that "all men are equally entitled to the free exercise of religion, according to the dictates of conscience", Backus devoted considerable attention to delineating the limits of civil authority in religious matters. Where Mason and Madison were motivated by the opportunity to put the principles of natural rights theory into practice, Backus was primarily driven by a desire to protect his religious liberty from legislative interference. It was not enough simply to declare that religious

²¹ Backus, *Diary of Isaac Backus*, Vol. III, 1605.

²² *Ibid.*

liberty was a natural right: through bitter experience he believed that the purview of the civil magistrate in these matters should be clearly stated. The government should be employed in actively protecting the rights of citizens, not interfering in the free exercise of these liberties.

Backus sent his list of rights to be included in the constitution to Alden on August 11. In response to the demands made by several towns and the recorded objections to the 1778 constitution, convention delegates agreed that the constitution should have a separate bill of rights and to this effect, a General Committee was formed to draft a declaration of rights. This committee elected a subcommittee of three: James Bowdoin, Samuel Adams and John Adams, to draft the constitution. The constitution presented to the convention on October 28 was almost entirely John Adams' work: he had been invited to prepare a plan by the other members of the subcommittee and the General Committee had made a few changes, but it was substantially his work.

Adams was a Christian Deist and later joined the Unitarian Church. He had been baptised into the Congregational Church and became a committed churchgoer in his adult years, attending worship twice on a Sunday. As a young man, he began training to enter the ministry, but decided to become a lawyer instead after a bitter theological debate broke out between his Enlightenment-influenced clergyman and Calvinist conservatives at Harvard. Adams supported his minister in the face of stern questioning from a Congregationalist clergy: not only did he concur with Lemuel Briant's religious convictions, he was disgusted by the intolerance and narrow-mindedness of his opponents. Adams himself came to believe in

a rationalistic form of Christianity. While he rejected the divinity of Christ, he believed in a personal relationship with God and the guidance of His Providence. He believed in the authority of His will working in the world. Like Jefferson and Madison, he was profoundly opposed to dogmatism and religious oppression.²³ His constitutional proposals on religious provision reflected both his firm belief in the importance of a relationship with God and the inviolability of freethinking.

The convention debated the proposed Declaration of Rights for two weeks. It devoted just one day to discussing Article II, which read:

It is the right and the duty of all men in society, publicly and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession of sentiments, provided he doth not disturb the public peace, or obstruct others in religious worship.²⁴

In line with the views of the people in the county of Essex and the town of Pittfield, this article removed all restrictions on the free exercise of religion and extended religious freedom to all believers in Massachusetts, not just the Protestants. People of all religious persuasions would be entitled to practise their faith in a manner of their choosing, without interference from the civil magistrate. Like the Virginia Declaration of Rights, but unlike Jefferson's Statute, this article emphasised both the "right" of free worship and its associated "duty". As Ronald M. Peters has argued, it implies that freedom

²³ Holmes, *Faiths of the Founding Fathers*, 76-78.

²⁴ 'The Constitution of 1780' in *Colony to Commonwealth*, 128. The version adopted by the convention differed only slightly from that which Adams originally drafted; the convention made a few cosmetic changes, but there were no substantive differences. See Cogliano, *No King, No Popery*, 117.

of conscience was to be limited to those who believed in God; beyond this, there could be no guarantees. Citizens had no "right" to deny the existence of God altogether. Furthermore, Adams' situates freedom of conscience within the context of society; unlike Jefferson, there is no sense that it is a natural right.²⁵ If it was to be considered a natural right, Adams would have included it in Article I of the Declaration of Rights. Therefore, even though this article extended religious freedom considerably, it was very much at the discretion of the civil magistrate.

Freedom of worship did not signify the separation of church and state in Massachusetts since Article III in the Declaration of Rights endorsed the provision of a religious establishment. It stated that:

As the happiness of a people, and the good order and preservation of civil government essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of GOD, and of public instructions in piety, religion and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorise and require, and the legislature shall, from time to time, authorise and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public protestant teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily.²⁶

Adams rejected Jefferson's conviction that full religious liberty entailed a separation of church and state and that states or societies should be religiously neutral. He believed it was important for the community to establish a public religion that all citizens could subscribe to; this would

²⁵ Peters, *Massachusetts Constitution of 1780*, 51-52.

²⁶ 'The Constitution of 1780' in *Colony to Commonwealth*, 128.

create common values, bind the people together, promote virtue, and complement the plurality of private religious activities.²⁷

The extent to which this article privileged the Congregational Church or maintained a Congregational establishment in Massachusetts is a contested issue for historians. William G. McLoughlin contends that this provision upheld a religious establishment that privileged, or at least benefited, the Congregationalists more than other religious groups, if only because they were the largest denomination and they dominated the religious landscape of Massachusetts.²⁸ While not going as far as to say that it created a religious establishment, Francis D. Cogliano argues that Article III “mandated public support for the dominant Congregational Church...it circumscribed the religious liberty guaranteed by Article II, not only of Catholics but also of Quakers, Baptists, Unitarians, and other non-Congregationalists”.²⁹ Charles H. Lippy suggests that the article did not create a religious establishment in Massachusetts; nor does he believe that the framers intend to authorise one. Rather, the object of instituting a system of public support for religion was to:

[P]romote political stability and social cohesion by guaranteeing that individuals would receive instruction in moral principles, rooted in the common religious sensibilities of the people, which would make them good citizens. In other words...[it] was intended simply to provide a legal framework within which a civil religion could flourish.³⁰

Civil religion does not require the support of the state in order to flourish, as citizens of this state proved seven years later when they came to consider a new constitution for the federal republic. Moreover, even if it did not

²⁷ John Witte Jr., “‘A Most Mild and Equitable Establishment of Religion’: John Adams and the Massachusetts Experiment”, *Journal of Church and State*, 41 (1999), 216-17.

²⁸ William G. McLoughlin, *New England Dissent: The Baptists and the Separation of Church and State*, 2 Vols. (Cambridge: Harvard University Press, 1971).

²⁹ Cogliano, *No King, No Popery*, 118.

³⁰ Charles H. Lippy, “The 1780 Massachusetts Constitution: Religious Establishment or Civil Religion?”, *Journal of Church and State*, 20 (1978), 534-45.

uphold the principle or practice of a religious establishment, it clearly affirmed a commitment on the part of the state to a relationship with the church, however broadly defined. It maintained the civil magistrate's interference in religious affairs and, as such, was roundly condemned by evangelicals and other religious groups represented at the convention. They argued that, by obliging citizens to support religion, Article III undermined and threatened the religious freedom promised in Article II. Proponents of the measure argued that the morality of the people, essential for the welfare and prosperity of the republic, was grounded in religion and therefore should be supported and promoted by the state. The assembly agreed and the article was carried on November 12, 1779, two days before the convention adjourned.

When delegates reconvened to discuss the framework for the new government in the main body of the proposed constitution, convention delegates once again had to consider the relationship between church and state in Massachusetts and the limits of religious liberty. In response to a request from the floor that officeholding be restricted to Protestants, a committee was formed to draft a suitable oath. They were given strict instructions to compose a declaration that would oblige officeholders to "renounce every principle (whether it be Roman Catholic, Mahometan, Deistical, or Infidel) which has any the least tendency to subvert the civil or religious rights established by this constitution", the implication being that only Protestant Christianity could be relied upon to support and foster republicanism in Massachusetts.³¹ Catholicism, Islam or atheism, while sanctioned by Article II as a necessary consequence of upholding freedom of

³¹ Ibid., 119

conscience as a natural right, were all incompatible with good citizenship and the principles of virtuous government in this state. Non-Protestants would be free to follow the dictates of their own conscience, but their religious convictions, or lack thereof, prevented them from playing an official role in political matters. In the minds of those who supported this request for a religious test, religion had an important role to play in the civic life of the commonwealth: not simply in a ceremonial sense, but in the sense of creating a secure, righteous foundation for government. Those who held religious convictions that differed from those that had shaped and driven Massachusetts' political heritage simply could not be trusted.

On February 17, the committee presented its report on oaths to the convention. Members proposed introducing a declaration stating: "I do declare that I believe the Christian religion and have a firm persuasion of its truth". Having excluded atheists, Jews and Muslims from political office, the second part of the oath admonished the divided loyalties that Catholics were popularly perceived to have: "no foreign Prince, Person, Prelate, State or Potentate, hath or ought to have any jurisdiction, superiority, pre-eminence, authority, dispensing or other power in any matter, civil, ecclesiastical or spiritual within this Commonwealth".³² Though it stopped short of barring Catholics from assuming office in Massachusetts, the language of the oath reveals that the framers still clearly identified Catholics as people who would answer ultimately to a foreign power and thereby undermine the sovereignty of the commonwealth and threaten both its security and the security of the citizens. The decision to permit Catholics to take positions of public office demonstrates that virulent anti-Catholicism was on the decline, but the

³² 'The Constitution of 1780' in *Colony to Commonwealth*, 143.

language of the article makes it clear that a lingering suspicion remained both on the part of the framers and the members of the convention who approved the oath and incorporated it into the constitution as Article I of Chapter 6.

Despite their reservations about Catholics, delegates similarly decided that the governorship should be open to all Christian citizens, not only Protestants. Adams believed that there should be some limitations placed on the highest office of the state, but beyond affirming the Christian religion, he was not particular about prohibiting certain people from assuming office. When a motion was made to specify that the governorship should be limited to Protestants, it was rejected by the convention.

The decisions to protect freedom of conscience while continuing to interfere in the public support for religion, only to open political office to all Christians, but implicitly attack Catholics in the language of the oath and bar non-Christians from serving in the government reveal that delegates in the convention were content to extend equality to all citizens in preserving their individual rights, but they were not yet ready to be tolerant when the safety and political direction of the government were at stake. Despite appearances to the contrary, they were not being hypocritical or inconsistent in adopting this position: the distinction they made between private affairs and public matters was essential to their understanding of revolutionary republicanism in Massachusetts. In approving Adams' Declaration of Rights and constitution, delegates asserted that the rights of individuals as private citizens should be extended and protected, but only so far as they did not threaten or undermine civil society. The community, the corporate body of citizens, also needed to be protected and, as such, it was the responsibility of

the state to ensure that good, virtuous behaviour was promoted through the public support of religion and the effects of amoral beliefs or behaviour were limited through a restriction on public officeholding.

The work of the convention was sent out to the towns for their approval at the beginning of March 1780. As in 1778, the people met in special town meetings, to debate the constitution and vote on its provisions. If two-thirds of the voters accepted the proposals, the constitution would be ratified. Although some towns simply recorded a positive or negative vote on the constitution as a whole, a sizeable number of towns transmitted their votes and responses on individual clauses to the convention.

The response to Article II of the Declaration of Rights was overwhelmingly positive: the citizens of Massachusetts welcomed and supported freedom of conscience, as the citizens of Virginia had.³³ Only four towns out of 175 opposed the article.³⁴ The response to Article III of the Declaration of Rights was far more mixed; indeed, it was one of the most contentious provisions in the constitution. The terms of the governorship were similarly controversial. The people of Massachusetts were willing to endorse freedom of religion for non-Protestants, but they were not ready to extend their full civil rights by permitting them to stand for governor of the Commonwealth. The people of Springfield were fairly representative of

³³ Though Virginia's constitution was never sent to the towns for approval, religious petitions submitted to the legislature in the years after 1776 often used the freedom of conscience protected in the Declaration of Rights as a starting point.

³⁴ Cogliano, *No King, No Popery*, 121.

opposition opinion in their conviction that members of the government should share the same religion as the majority of the population:

As the People of this Commonwealth are generally, if not universally, of the Protestant reformed Religion, they apprehend it would be Matter of Great & General Concern that any Person might ever be elected to this Office over them or their Posterity, who should not be of the Protestant Religion; and they are of Opinion this ought to be provided for in the most express Terms; and that the same Provision, Alteration or Amendment, should be made in the Declaration to be made by the Lieutenant Governor Councillors, Senators & Representatives & in the Form of the Oath to be taken by all Officers under the Government.³⁵

Most of the objections to this provision were related to a lingering anti-Catholicism amongst people in Massachusetts. Despite the increase of evangelicalism as typified by the growth of the Baptists and the widespread antipathy towards Deists and atheists, the returns reveal that citizens in this New England state were overwhelmingly driven to oppose this article on the basis of their suspicions towards Catholics. Anti-Catholicism had been a longstanding feature of Anglo-American political discourse since the earliest days of settlement and had been given special impetus during the colonists' wars with France.³⁶ Anti-Catholicism continued to appear in the political rhetoric and concerns of Americans outwith New England both during and after the Revolution, but it remained particularly prevalent in this region.

³⁵ 'From the Return of Springfield (Hampshire County), 1780' in *Colony to Commonwealth*, 155.

³⁶ Linda Colley, *Britons: Forging the Nation, 1707-1837* (New Haven; London: Yale University press, 1992) examines the way in which eighteenth century British national identity was forged in a shared antipathy towards Catholics and Catholicism. Though focused on mainland Britain, her thesis is pertinent to Anglo-America during this period, particularly when coupled with scholarship on the nature of provincial identity in the eighteenth century: see Colin Kidd, 'North Britishness and the Nature of Eighteenth-Century British Patriotisms', *The Historical Journal*, 39 (1996), 361-382; T. H. Breen, 'Ideology and Nationalism on the Eve of the American Revolution: Revisions Once More in Need of Revising', *Journal of American History*, 84 (1997), 13-39; Nathan O. Hatch, 'The Origins of Civil Millennialism in America: New England Clergyman, War with France, and the Revolution', *William and Mary Quarterly*, Third Series, 31 (1974), 407-430 examines the nature and significance of nationalistic anti-Catholicism during the Seven Years' War.

Interestingly enough, Cogliano's quantitative study of the voting on this article reveals that approval rates were higher in eastern towns, where residents had regular contact with French Catholics, than they were in western Massachusetts and Maine. With the exception of Bristol county, almost sixty-eight per cent of voters in eastern counties endorsed the constitutional provision that permitted a Catholic, or any other Christian, to assume the governorship, compared with just over forty-five per cent in western counties. In these latter towns, the Catholic threat was close enough to breed hostility and suspicion, but not close enough to permit the kind of contact and communication that promoted tolerance and understanding. Citizens in cosmopolitan centres with strong connections to the outside world and regular exposure to a range of liberal opinion in the newspapers and churches, and from ministers who tended to be more enlightened than their counterparts in smaller, more isolated communities were more likely to support greater toleration for Catholics.³⁷

In June 1780, the convention gathered once again to examine the returns from across the state and ratify the decision of the townspeople. Though less than two-thirds of the population approved the constitution, every article was approved by at least a small majority and therefore the convention voted to put the new constitution into operation. Unsurprisingly, the approval rate for Article III was controversial. Noah Alden informed the Warren Association of Baptists that it had not received the support of even a bare majority, nevermind two-thirds of the population; a finding that was later corroborated by Samuel Morison in his study of the ratification

³⁷ Cogliano, *No King, No Popery*, 124-26.

process.³⁸ In response to Alden's findings, and in dismay that the article had been approved by the convention, the Association composed a protest to send to the General Court in September of that year. Deciding against challenging the decision to ratify the article, the Baptists focused their efforts on outlining their opposition to the measure. First, they argued that it privileged the majority over the minority in determining the ministers of each parish: a particular concern to them and other religious groups since they would almost always be in the minority, given the strength of the Congregational Church. Second, they contested the decision to recognise parish voters in terms of their financial contributions rather than their membership of the "Church of Christ". Third, they argued that it was inconsistent in terms of protecting religious liberty and establishing equality between religious sects. Fourth, they objected to the principle contained in the article that gave civil authorities the power to interfere with and judge matters of private conscience, also a burning issue for Baptists fighting for religious liberty in Virginia. Fifth and finally, they maintained that it put ecclesiastical affairs under the jurisdiction of the legislature and therefore failed to maintain a necessary separation of powers.³⁹ The Association articulated the classic Baptist position on church and state; one that was similarly articulated in Virginia and other states where they had a sizeable presence. They denied the authority of the civil magistrate to interfere in the private spiritual affairs of its citizens, maintained that any issue connected with the public support of religion threatened religious liberty and submitted to God as the sovereign

³⁸ Alden calculated that only 8585 citizens were in support of the article, while 3201 were against it and a further 3196 demanded amendments. See Backus, *Diary*, Vol. II. 1057-58; Samuel Eliot Morison, 'The Struggle Over the Adoption of the Constitution of Massachusetts, 1780', *Proceedings of the Massachusetts Historical Society*, 50 (1917), 411.

³⁹ *Ibid.*

authority on these matters. They believed that people should be answerable, not primarily to the state, but to God; and that religious worship was first and foremost about maintaining a relationship with Him, not about promoting virtue and good citizenship. The legislature ignored the Baptists' protest. They had lost the battle to establish full religious liberty as they saw it, in the separation of church and state, in Massachusetts.

Given the civic importance of public worship and religious instruction in Massachusetts, it is fitting that the inauguration of the new government was marked with a sermon. The preacher, Samuel Cooper, was a prominent, well-educated Congregational minister from Boston. Educated at Harvard, Yale and Edinburgh, and vice-president of the American Academy of the Arts and Sciences, he was as well established as a political commentator as a clergyman. Since the publication of his first pamphlet in 1754, *The Crisis*, he regularly contributed to newspapers and had been invited to give a number of election sermons.⁴⁰

The theme of this sermon was the similarity between the experience of the ancient Israelites and the experience of the people of Massachusetts: both were "a nation chosen by God as a theatre for the display of some of the most astonishing dispensations of his providence".⁴¹ Employing the rhetoric of the

⁴⁰ Peters, *Massachusetts Constitution*, 27; Ellis Sandoz ed., *Political Sermons of the American Founding Era, 1730-1805*, 2nd edition., Vol. I (Indianapolis: Liberty Fund, 1998), 628.

⁴¹ Samuel Cooper, 'A Sermon Preached Before His Excellency John Hancock, Esq, Governour, The Honourable the Senate, and House of Representatives of the Commonwealth of Massachusetts', in Ellis Sandoz ed., *Political Sermons of the Founding Era*, Vol. I, 631.

jeremiad tradition, Cooper listed the ways in which their history echoed that of the Israelites: they had been led into a wilderness to be sheltered from oppression; they had suffered at the hands of those from whom they were trying to escape, but were ultimately protected by God; they had freed themselves from bondage; and they had taken Him for granted but He had disciplined them and shown them mercy. This day of inauguration was a blessing to the people because it was evidence that God had them in His care and had not forsaken them.

Cooper examined the history of Hebrew government and revealed a model that very much reflected the constitution Massachusetts was about to implement. With "a charter from heaven", God's people had implemented a "free republic, over which God himself...was pleased to preside". Government had consisted of a chief magistrate, a council and an assembly of the people: the latter being the most important branch of government because it was "frequently held by divine appointment, and considered as the fountain of civil power". Moses' law became their law on the authority of God and the people.⁴² In articulating a republican view of Jewish history, Cooper further identified the new frame of government with that of God's chosen people: the constitution being effected was in line with Biblical tradition and was, ultimately, sanctioned by God. The people of Massachusetts could therefore be sure that in approving their constitution and ushering in a new republican order, they were living in accordance with God's will.

⁴² Ibid., 634.

Turning to the particulars of the new frame of government, Cooper praised the "broad foundation for the exercise of the rights of conscience".⁴³ He acknowledged that there was a "diversity of sentiment" with regards to the interference of the civil magistrate in religious affairs and the nature of the relationship between church and state in Massachusetts, but he expressed his hope that the denominations would respect the differences of one another and unite in support of the constitution. Religious parties, like any other kind of political parties, were "greatly injurious to a free state, and particularly so to one newly formed".⁴⁴ In the early stages of independence, it was critically important that religious disputes were prevented from threatening the republican experiment. Cooper could not have been ignorant of the difficult relationship between the Congregational Church and dissenting religious societies in Massachusetts and, as a member of the establishment, these words were most likely aimed at pacifying the demands and grievances of groups such as the Baptists. In his mind, the constitution protected the rights of conscience and there was therefore no due cause for complaint.

Cooper declared that Massachusetts' constitution was "framed upon an extent of civil and religious liberty, unexampled perhaps in any country in the world, except America".⁴⁵ Notwithstanding Cooper's concession that other American states might have produced constitutions that were equally committed to civil and religious liberty, the overall tone of Cooper's sermon and the extent to which he identified the history of the Israelites with that of New England in particular suggest that he believed Massachusetts had a special place in God's plan. The history of Massachusetts was the history of a

⁴³ Ibid., 644.

⁴⁴ Ibid., 648.

⁴⁵ Ibid., 644.

covenanted people: in the shared experience of resistance, revolution and republicanism, that covenant had been extended to the rest of America, but its foundations very much lay in New England.⁴⁶

Cooper concluded his sermon with a lengthy invocation of God. He asked the "Governor of the world" to "establish the foundations of this commonwealth" and grant that "the divine constitutions of Jesus thy Son may ever be honoured and maintained".⁴⁷ It was an appropriate conclusion to the period of framing and implementing a new constitution for Massachusetts. Unlike in Virginia, where the controversy over the relationship between church and state continued for ten years after the constitution had been put into practice, the ratification of the constitution in Massachusetts marked an end to the legislative debate over the meaning and the extent of religious liberty. The Baptists continued to press for disestablishment and a more radical, all-embracing form of religious freedom in line with that which was implemented in Virginia in 1786, but the limits had been reached in 1780. Unlike in Virginia, where the constitution had been drafted and approved in the legislative assembly in relative secrecy, the constitution in Massachusetts had been created by an elected assembly and approved by the freeholders. Despite the controversy surrounding Article III of the constitution, this new frame of government had received the approval of a majority of the people of this New England state. The Baptists had

⁴⁶ For John Adams, the founding of Massachusetts was synonymous with the founding of America. He believed that New England had a special destiny; that God intended great things for Massachusetts, and for America. See Timothy H. Breen, 'John Adams' Fight Against Innovation in the New England Constitution: 1776', *New England Quarterly*, 40 (1967), 501-03. For more on covenant theology, New England's sacred history and American identity, see Sacvan Bercovitch, *The Puritan Origins of the American Self* (New Haven: Yale University Press, 1975); Sacvan Bercovitch, *American Jeremiad* (Madison: University of Wisconsin Press, 1978).

⁴⁷ Cooper, 'A Sermon Preached', 656.

participated in the constitutional process, they had been represented at the constitutional convention and had voiced their objections during the period of ratification. Their subsequent complaints did not have the same political impact as their counterparts in Virginia. In accordance with the dictates of natural law, citizens in Massachusetts would be free to practise their religious beliefs in accordance with their conscience, but they would also be obliged to participate in the collective promotion of Christianity by providing financial support to religious teachers. The constitution of 1780 established Massachusetts as a Christian commonwealth: a state with a frame of government and declaration of rights that married the revolutionary republicanism of its political present with the piety and devotion of its religious heritage.

The Federal Constitution

The Constitutional Convention

In May 1787, delegates from twelve states gathered in Philadelphia to revise the Articles of Confederation.¹ Representatives from several states had met in Annapolis the previous autumn for a trade convention to discuss interstate commerce, with the intention of resolving some of the political and economic difficulties that had beset the republic since its inception. However, poor attendance undermined the legitimacy and authority of the convention and no substantial diplomatic agreement could be reached. Instead, styling themselves the Commissioners to Remedy Defects of the Federal Government, the delegates drew up a report calling for another assembly with wider-ranging powers “for the same, and such other purposes, as the situation of public affairs may be found to require”.² In February 1787, the Continental Congress approved the constitution of a new convention “for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein”.³

The fifty-five men who met to deliberate on a more perfect union were representative of the American people in geographical terms only. The “assembly of demi-gods”, as Jefferson so memorably described them, was largely composed of men with wealth, status and political experience. Most of them were nationalists, keen to expand the power of the federal

¹ Rhode Island refused to send a delegation.

² ‘Proceedings of Commissioners to Remedy Effects of the Federal Government’, in ed. Charles C. Tansill, *Documents Illustrative of the Formation of the Union of the American States* (Washington D.C.: United States Government Print Office, 1927), 41.

³ *Journals of the Continental Congress, 1774-1789*, Vol. XXXII (Washington D.C.: United State Government Print Office, 1936), 74.

government in order to solve the young nation's political, economic and diplomatic problems. Massachusetts sent four delegates: Elbridge Gerry, Nathaniel Gordon, Rufus King and Caleb Strong. John Adams was in London and Samuel Adams had not been appointed by the Massachusetts legislature. According to Matthew Secombe, "Adams undoubtedly could have claimed a seat in the convention if he wanted one", but he "apparently did not want to go to Philadelphia." Adams knew that he was needed in Massachusetts; the western counties were still plagued by political unrest and his allies in the Bowdoin administration were under increasing attack from John Hancock's party.⁴ That said, Adams might not have been well-received in Philadelphia; most of the delegates were, if not as nationalist as Alexander Hamilton, at least in favour of a much stronger central government. As Carol Berkin has argued: "Adam's democratic impulse was out of sync with the fear of debtor riots and farmers' revolts that prevailed there...[i]n 1787 Samuel Adams was a relic of the past, best appreciated from a distance. The men gathering in Philadelphia were a different breed of revolutionary."⁵ Like the Massachusetts delegation, the representatives from Virginia were missing certain notable patriots. Thomas Jefferson was in Paris and neither Richard Henry Lee nor Patrick Henry wanted to participate in any plan to consolidate the union. Henry had been elected to attend the Convention by members of the Virginia House of Delegates, but had refused to serve in large part because he was angry at the prospect of Congress

⁴ Matthew Secombe, *From Revolution to Republic: The Later Political Career of Samuel Adams, 1774-1803* (New Haven, CT.: Yale University PhD thesis, 1978), 234.

⁵ Carol Berkin, *A Brilliant Solution: Inventing the American Constitution* (Orlando: Harcourt, 2003), 63-64.

relinquishing control of the Mississippi.⁶ Altogether, Virginia sent six representatives to Philadelphia: George Washington, who was quickly elected president of the Convention, James Madison, Edmund Randolph, John Blair, George Mason, and George Wythe. Like Massachusetts, Virginia's delegation was politically divided: Gerry and Mason were notably suspicious about the proposals for constitutional reform.

The delegates deliberated for sixteen weeks, during which period they wrestled with balancing power between the branches of federal government, between the large and small states, and between the federal government and the state governments. Debates over representation, taxation and slavery were prolonged and often threatened to undermine the entire endeavour. Although they had only been empowered to revise the Articles of Confederation, the delegates quickly elected to frame a new constitution, the basis of which was James Madison's Virginia Plan. The final constitution created a strong national government with separate executive, legislative and judicial branches; a bicameral legislature, with the seats in one house determined by population and the seats in the other divided equally between the states; the election of the president through an electoral college; and the allocation of representation and taxation according to the three-fifths ratio, whereby the slave population of each state was counted as three-fifths of the free population. In addition to sanctioning slavery indirectly, the Convention agreed not to abolish the international slave trade until 1808, at the earliest.

⁶ Moses Coit Tyler, *Patrick Henry* (Boston; New York: Houghton Mifflin, 1898), 311; Richard R. Beeman, *Patrick Henry: A Biography* (New York: McGraw-Hill, 1974), 140. Madison believed that Henry refused to attend because he did not want to be forced into making a decision on a new constitution until an agreement had been reached on the navigation of the Mississippi. See 'James Madison to Thomas Jefferson, March 19, 1787' in *The Papers of James Madison*, Vol. VIII, eds. William T. Hutchison and William M. E. Rachal (Chicago; London: University of Chicago Press, 1975), 319.

Religion did not feature at all in the proceedings until June 28, when, in the midst of a heated debate about congressional representation, Benjamin Franklin proposed daily prayers in the Convention. Reasoning that that the assembly's recent failure to come to an agreement was indicative of "the imperfection of Human Understanding", he suggested that the delegates "humbly apply to the Father of lights to illuminate our understandings." The American people and their leaders had prayed for divine protection during the War for Independence and God had delivered them safely to victory. He had sustained the young nation through its early years and it was therefore an act of both duty and good sense to acknowledge God's sovereignty over the affairs of men and request His divine intervention at this present crisis. "I have lived, Sir, a long time and the longer I live, the more convincing proofs I see of this truth – that God governs in the affairs of men", he declared. "And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the sacred writings that 'except the Lord build they labor in vain that build it.' I firmly believe this; and I also believe that without his concurring aid we shall succeed in this political building no better than the Builders of Babel." Warning the other delegates about the unfortunate consequences of their failure to establish a stable government for mankind, Franklin proposed a remedy with a plea to appoint "one or more of the Clergy of this City" to lead daily prayers.⁷

Franklin's reasons for presenting the motion are unclear. It was not uncommon for the deliberations of political assemblies to be opened with

⁷ Max Farrand (ed.), *The Records of the Federal Convention of 1787*, Vol. I (New Haven: Yale University Press, 1911), 450-452.

prayers; the Continental Congress had appointed a chaplain to lead daily prayers and deliver occasional sermons since 1774.⁸ When Thomas Cushing of Massachusetts had initially proposed morning prayers and an Episcopalian clergyman was suggested for the role on the grounds that the majority of delegates were members of this denomination, he was opposed by Congregationalists, John Jay of New York and John Rutledge of South Carolina, because the “diversity of religious sentiments represented in Congress” made such an appointment problematic. However, Samuel Adams, also a Congregationalist, had brushed aside this objection, declaring that he “could hear a prayer from any gentleman of piety and virtue, who was at the same time a friend to his country” and the Rev. Jacob Duché was duly invited to open the morning sessions with prayer.⁹ Within this context, Franklin was simply following the precedent set by members of the national legislature. However, the ambiguity of Franklin’s religious convictions and the timing of his motion complicate this interpretation.¹⁰ Unlike Cushing,

⁸ Chaplain to Congress was an unsalaried position until 1788. Rev. John Rogers, appointed in this year, received three hundred dollars.

⁹ *Journals of the Continental Congress*, Vol. I, 26. Between 1774 and 1789, five clergymen served as Chaplain to Congress: Jacob Duche, William White, George Duffield, Daniel Jones and John Rogers. See Derek H. Davis, *Religion and the Continental Congress, 1774-1789: Contributions to Original Intent* (Oxford; New York: Oxford University Press, 2000), 73-76.

¹⁰ Franklin’s religious convictions are notoriously difficult to pinpoint. He was born into a Presbyterian family, but is most commonly described as a Deist; indeed, he described himself as such in his Autobiography. The clearest exposition of his personal religious beliefs is to be found in a letter to Ezra Stiles, written shortly before his death in 1790. He declared the following as his creed: “I believe in one God, Creator of the Universe. That He governs it by his Providence. That he ought to be worshipped. That the most acceptable Service we can render to him, is doing Good to his other Children. That the Soul of Man is immortal, and will be treated with Justice in another Life respecting its Conduct in this”. He understood these to be the “fundamental Principles of all sound Religion” and measured sects according to these standards. On the matter of Christ’s divinity, he acknowledged that he had “some Doubts” but admitted that he had “never studied it”. See Benjamin Franklin to Ezra Stiles, 9 March 1790, Richard Price Papers, B. P93, American Philosophical Society. In the context of this letter, written not long after the Convention closed, it seems reasonable to surmise that Franklin’s request for prayer was genuine, driven by a concern that the delegates had ignored God in the course of their proceedings and their deliberations had consequently suffered. For further discussion of Franklin’s religious beliefs, see Holmes,

who had suggested prayers at the beginning of the session when members were deciding on procedural matters, Franklin waited one month before doing likewise. If he had truly believed in the importance of prayer, it seems reasonable to expect that Franklin would have made his proposal in May, shortly after the election of Washington as president of the Convention. His decision to wait until late June, at a time when tensions were running high, suggests that his intervention was largely a pragmatic gesture. Franklin hoped that a time of prayer would give the delegates time to reflect on the nature of their common endeavour and the importance of arriving at compromises over difficult issues. In a more spiritual sense, he hoped that God would guide proceedings and give the delegates the necessary political wisdom. Franklin knew that, as the elder statesman of the Convention, the other delegates would respectfully consider his request and quite possibly assent. It was an entirely reasonable proposal, in keeping with the custom of other assemblies and the widespread practice of acknowledging and involving God in the political development of the young nation. However, the Convention did not share Franklin's convictions in this matter. While Roger Sherman of Connecticut seconded the motion, a number of other delegates quickly objected to the suggestion on the grounds that prayer at this juncture would create additional problems. These men, led by Alexander Hamilton, were concerned that the appointment of a clergyman would lead to disagreement and further conflict within the Convention (despite Franklin's proposal that one *or more* of the clergy in Philadelphia be asked to preside) and that, if it became public knowledge, the people might come to

Faiths of the Founding Fathers, 53-57; Walter Isaacson, *Benjamin Franklin: An American Life* (New York: Simon & Schuster, 2003), 84-88, 467-469.

the conclusion that the delegates had been forced to institute prayers by "embarrassments and dissensions". Franklin and Sherman's retort - that the timing of the motion should not have any bearing on its acceptability; that rejecting the proposal would create more conflict than appointing a clergyman and that the people's concern for the progress of the proceedings may improve the situation - fell on deaf ears. Hugh Williamson of North Carolina declared that prayers could not be held because the assembly lacked the necessary funds to pay a clergyman. Attempting to arrive at a compromise, Edmund Randolph suggested that the Convention recommend a day of thanksgiving on 4 July and thereafter meet for morning prayers. Franklin seconded Randolph's proposal, but the delegates were reluctant to discuss the matter and the Convention adjourned without voting. Franklin privately noted that, with the exception of three or four delegates, the representatives considered prayers "unnecessary".¹¹

The Convention's unwillingness to endorse Franklin's proposal was symptomatic of the delegates' reluctance to engage with religion in drafting a new federal constitution. While the Continental Congress discussed the role of religion in the settlement of the western territories in drawing up what would become the Northwest Ordinance, the Constitutional Convention ignored its provision in lands that were already part of the union. They devoted weeks of debate to discussing representation, taxation and slavery; by contrast, religion was almost entirely sidestepped. There are at least three explanations for the lack of debate over the provision and protection of religion. First and foremost, the primary objective of the Convention was to

¹¹ Farrand, *Records of the Federal Convention*, Vol. I (New Haven: Yale University Press, 1911), 452.

produce a frame of government that would solve the political and economic problems of the Continental Congress. These were the imperative issues and the impetus for the Philadelphia Convention. They had few or, more likely, no objectives when it came to church-state relations at federal level. Religion was "a relatively low priority" because it was not a critical concern and the Articles of Confederation had little to say on the matter.¹² In following their brief to focus on revising this frame of government, the delegates quite rightly avoided any great debate on the subject. Second, the delegates were dissuaded from discussing religion at length because the Continental Congress had set the precedent of letting the individual states decide upon their own religious settlements with little or no interference from the national legislature.¹³ Most delegates believed that the issue was best left to the states.¹⁴ Bringing religion to the forefront of political debate at the Convention would have undermined the position of the states and the framers knew that, in order to secure the best chances of ratification, it was essential to maintain state sovereignty wherever possible.¹⁵ Third, given the contentious nature of many issues, it was important, where possible, to maintain unity within the Convention and secure acceptance without and, as Frank Lambert has argued, "religion was a divisive, not a unifying, force in

¹² Britton D. McClung, *The Constitutional Basis of Atheism in the United States: From Theoretical Foundations to Modern Interpretations* (Waco, TX: Baylor University MA thesis, 2003), 86-87.

¹³ *Ibid.* Congress relied on historical precedent when considering its legislative jurisdiction in religious matters: it submitted to the states on questions of church establishment and taxes in support thereof, religious tests and legislation guarding Christian morals; however, it assumed authority in new areas as the political situation in America evolved. It therefore did not hesitate to pronounce national fast days during the conflict with Britain as a means of calling on God's favour and co-ordinating the war effort. See Davis, *Religion and the Continental Congress*, 132.

¹⁴ Edwin S. Gaustad, 'Religious Tests, Constitutions, and 'Christian Nation' in eds. Ronald Hoffman and Peter J. Albert, *Religion in a Revolutionary Age* (Charlottesville, VA: United States Capitol Historical Society by University Press of Virginia, 1994), 225.

¹⁵ Davis, *Religion and the Continental Congress*, 133.

pluralistic America".¹⁶ There was therefore no real discussion of church-state relations at federal level: no suggestion that, with a stronger national government, some form of religious establishment, however loose, might be appropriate. The preamble, used by authors of several state constitutions to extol God or the Christian religion as the basis of good government, was entirely silent on the issue. There was no reference to the Creator, divine providence or even to Nature's God, as in the Declaration of Independence. Instead, in composing the final draft, Gouverneur Morris decided against "We the people of the States of New Hampshire, Massachusetts, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia" and replaced it with the much simpler and more effective "We, the people of the United States". There was no suggestion in the Convention that more religious language should be used either at the beginning or in the main body of the document. In the end, only two oblique references to the Christian religion were made: Article I, Section VII excludes Sundays from the ten days the president is given to veto congressional legislation, thus enshrining the Sabbath in the national frame of government, and the date of the constitution is given as 'the year of our Lord seventeen hundred and eighty-seven, and of the Independence of the United States the twelfth' in Article VII. Though they may seem like minor, almost incidental, features of the constitution, James H. Hutson rightly maintains that these references fundamentally challenge Isaac Kramnick and R. Laurence Moore's

¹⁶ Frank Lambert, *The Founding Fathers and the Place of Religion in America* (Princeton, NJ; Oxford: Princeton University Press, 2003), 250.

description of the constitution as a “godless document”.¹⁷ Kramnick and Moore argue that “God and Christianity are nowhere to be found in the American Constitution” and that the document betrays “utter silence with respect to God and the United States as a Christian nation.”¹⁸ These references, however seemingly insignificant, clearly show that America’s Christian heritage, if not Christianity itself, was written into the constitution. The framers almost avoided any explicit discussion of religion and its provision for the reasons outlined above, but they implicitly accepted that America’s Christian traditions and customs would be respected in the new frame of federal government.¹⁹ The framers had no intention of creating an overtly religious document or one that challenged existing church-state relations, but they similarly saw no need to attack or even undermine the religious fabric that underpinned American society and shaped the lives and language of its people. They sidestepped religion in a spiritual sense, but they embraced it in a cultural sense: a very subtle, but important, distinction.

When the delegates *did* discuss religion and its place in the new federal government, they decided that it had none. Not content simply to avoid the issue, they actively legislated against its role and influence. On August 20, Charles Pinckney proposed that “no religious test or qualification shall ever be annexed to any oath of office under the authority of the U.S.,” reasoning that it was “a provision the world will expect from you, in the

¹⁷ James H. Hutson, *Forgotten Features of the Founding: The Recovery of Religious Themes in the Early American Republic* (Lanham: Lexington Books, 2003), 113-114; Isaac Kramnick and R. Laurence Moore, *The Godless Constitution: The Case Against Religious Correctness* (New York; London: W.W. Norton & Company), 27-28.

¹⁸ Kramnick and Moore, *Godless Constitution*, 27.

¹⁹ William Lee Miller contrasts the delegates’ approach with that of the French revolutionaries in 1793, who, in an attempt to create a solidly secular state, abolished Sundays and created a calendar based on a ten-day week. See Miller, *The First Liberty*, 107-108.

establishment of a System founded on Republican principles, and in an age so liberal and enlightened in the present."²⁰ It was referred to the Committee of Detail, along with his other recommendations, without being considered by the House. Ten days later, he resubmitted his proposition as delegates were considering the terms of officeholding. When Article XX, "The members of the Legislatures, and the Executive of the United States, and of the Several States, shall be bound by oath to support this Constitution", was approved, Pinckney quickly suggested: "but no religious test shall ever be required as a qualification to any office or public trust under the authority of the United States".²¹ Roger Sherman questioned the necessity of the clause, arguing that "the prevailing liberality" served to protect the people against such an imposition; this, despite the inclusion of religious tests in the constitutions of Delaware, Georgia, Maryland, Massachusetts, New Hampshire, New Jersey, North Carolina and Pennsylvania and South Carolina.²² However, his comment was disregarded and the motion was

²⁰ Farrand, *Records of the Federal Convention*, Vol. II, 342; Charles Pinckney, *Observations on the Plan of Government submitted to the Federal Convention in Philadelphia, on the 28th of May, 1787* (New York, 1787) (Evans 20649), 26. Pinckney had 'included' an article preventing "Religious Tests as qualifications to Offices of Trust or Emolument" in his plan of government, presented to the House and referred to the Committee of the Whole House on May 29. There is no record of the plan, aside from notes made by James Wilson in the Committee of Detail. In 1818, John Quincy Adams requested and received a copy of the plan from Pinckney; however, Rufus King and James Madison argued that it was substantially different from that presented to the Convention in 1787. In 1911, Max Farrand reconstructed the Pinckney Plan using Wilson's notes and the *Observations* pamphlet, ostensibly an undelivered speech written to accompany the plan. The article forbidding religious tests appeared in Pinckney's pamphlet, not in Wilson's notes. See Farrand, *Records of the Federal Convention*, Vol. III, 595-609.

²¹ *Ibid.*, 468.

²² Connecticut and Rhode Island did not draft new constitutions during the Revolution. Connecticut's charter did not contain a test oath; in Rhode Island, only Protestants were able to vote or participate in government. See John K. Wilson, 'Religion Under the State Constitutions, 1776-1800', *Journal of Church and State*, 32 (1990), 764. Though there was no constitutional test oath for officeholding, new immigrants wishing to settle in New York had to renounce any allegiance to the Pope. See David E. Maas, 'The Philosophical and Theological Roots of the Religious Clauses in the Constitution' in *Liberty and Law: Reflections on the Constitution in American Life and Thought*, ed. Ronald A. Wells and Thomas A. Askew (Grand Rapids, MI: William B. Eerdmans, 1987), 11. For references to religious tests in state

seconded by Gouverneur Morris of Pennsylvania and Charles Cotesworth Pinckney of South Carolina before being approved by the Convention. Article VI of the Constitution states that officeholders “both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test of qualification shall ever be annexed to any oath of office under the authority of the U.S.”²³ A few weeks later, Charles Pinckney once again attempted to introduce a measure that would proclaim the religious neutrality of the new national government. Together with James Madison, he proposed on 14 September that Congress be empowered “to establish an University, in which no preferences or distinctions should be allowed on account of religion.”²⁴ James Wilson supported the motion but it was opposed by Gouverneur Morris and rejected by the Convention on the grounds that the establishment of educational institutions should be left to the states.²⁵

In his report to the Maryland legislature, Luther Martin stated that Article VI was adopted “by a great majority of the convention, and without much debate”.²⁶ He sarcastically noted that “there were some members so *unfashionable* as to think, that a *belief of the existence of a Deity*, and of a *state of future rewards and punishments* would be some security for the good conduct

constitutions, see Benjamin Perley Poore, *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States* (Union, N.J.: Lawbook Exchange, 2001). The Articles of Confederation provided no oath or religious test for members of Congress, namely because it was a compact between sovereign states and in the Anglo-American tradition, tests were considered the sole prerogative of sovereign bodies. See Daniel L. Dreisbach, ‘The Constitution’s Forgotten Religion Clause: Reflections on the Article VI Religious Test Ban’, *Journal of Church and State*, 38 (1996), 263-264; Maas, ‘Philosophical and Theological Roots’, 6-7

²³ The option of affirming support for the constitution, instead of swearing an oath, was included to ensure that Quakers and other Americans who objected to oaths would not be excluded from government on the basis of their religious convictions.

²⁴ Farrand, *Records of the Federal Convention*, Vol. II, 616.

²⁵ *Annals of Congress*, House of Representatives, 1st Cong., 2nd sess., 1604.

²⁶ North Carolina voted against it and the delegation from Maryland was divided.

of our rulers, and that, in a Christian country, it would be *at least decent* to hold out some distinction between the professors of Christianity and downright infidelity or paganism."²⁷ Although the majority of the delegates may only have been "nominally members of one of the traditional churches" who could "take their religion or leave it alone," there was, nevertheless, a widespread belief in what Hutson refers to as the "social and political utility of religion".²⁸ He argues that "religion was considered to be the handmaiden of republican government" because a belief in a future state inculcated the people with the necessary virtue to govern and submit to good government; in short, "it made good citizens".²⁹ Indeed, just one month before the Convention approved Pinckney's clause, the Continental Congress had passed the Northwest Ordinance, which proclaimed that "religion, morality, and knowledge" were "necessary to good government and the happiness of mankind".³⁰ Why, then, did the delegates, with almost total unanimity, vote in favour of a measure that disregarded religion and its role in public life? Moreover, why did they do so with "surprisingly little discussion"?³¹

There are a few possible reasons. The first is the same as one given for the overall lack of discussion about religion at the Constitutional Convention: that though many inside and outside the chamber might have considered the United States a Christian nation, religion was a very sensitive

²⁷ Luther Martin, *The Genuine Information delivered to the Legislature of the State of Maryland, relative to the Proceedings of the General Convention lately held at Philadelphia* (Philadelphia, 1787) (Evans 21220), 80. David Maas believes that Luther Martin was genuinely in support of Pinckney's proposal, but his language suggests otherwise. See Maas, 'Philosophical and Theological Roots', 14.

²⁸ Clinton Rossiter, *1787: The Grand Convention* (New York: New American Library, 1968), 148; Hutson, *Forgotten Features*, 2.

²⁹ Hutson, *Forgotten Features*, 17, 31.

³⁰ 'Ordinance of 1787, July 13, 1787. An Ordinance For the Government of the Territory of the United States Northwest of the River Ohio', in *Documents Illustrative of the Formation of the Union*, ed. Tansill, 52.

³¹ Kramnick and Moore, *The Godless Constitution*, 29.

subject, with the potential to create insurmountable divisions. The variety of denominations, sects and religious organisations in the United States could have made it difficult for the framers to compose an oath that was sufficiently rigorous without privileging one church over another, and therefore unable to gain the approval of all American believers.³² It may have been possible to draft a test that simply affirmed a belief in God without expounding any specific Christian principles, yet the framers decided against favouring religion altogether, not simply Christianity or one denomination over another.

It is probable that philosophical, political, and pragmatic considerations also played a part in this decision. There was a widespread belief, or a deep-seated conviction in the case of some delegates, that religious freedom was an essential liberty and should be upheld. Whether grounded in natural rights philosophy or spiritual commitment, these delegates held that the state had no right to interfere with, or cast judgement on, the religious beliefs of its citizens. Kramnick and Moore suggest that the framers created a wholly secular government because they “sought to separate the operations of government from any claim that humans can know and follow divine direction in reaching policy decisions”.³³ In accepting Pinckney’s proposal, they created the first “liberal secular vision of the separation of church and state and the first formal repudiation of the Christian commonwealth”. The framers had grand ambitions and their decision therefore had monumental consequences: “the privatization of religion, its removal from the public realm, and its transfer to the private

³² Gaustad, ‘Religious Tests and Constitutions’, 234.

³³ Kramnick and Moore, *The Godless Constitution*, 12.

world of individual freedom of conscience, belief, and practice".³⁴ This is not strictly true. Where they could, the framers ensured that religious affiliation, or lack thereof, would serve as neither a bolster nor a barrier to holding political office. However, they could not abolish religious tests where they already existed, in the vast majority of the states. Article VI clearly states that, while officials in both the United States and the state governments would be bound to support the U.S. Constitution, only officials "under the authority of the U.S." (in short, federal officials) would be exempt from a religious test. The political limitations of their decision are brought into focus by a letter from Jonas Phillips, a Philadelphian Jew, to George Washington on September 7. Decrying the test oath in the Constitution of Pennsylvania that limited officeholding to those who would "acknowledge the scriptures of the old and New testament to be given by a devine [sic] inspiration," he affirmed the American Jewish community as "true and faithful whigs" and requested that the Convention alter the oath in order to permit Jews to take office.³⁵ Under the proposed constitution, American Jews like Phillips would be as eligible to serve in the United States government as any American Protestant, but they would still be excluded from full participation in Pennsylvania. Given their readiness to consolidate power in their plan for a new federal government, the framers could have attempted to abolish religious tests in each of the relevant states, but they lacked the necessary political will. Support for Pinckney's proposal did not necessarily signify a rejection of these tests in principle.³⁶ Rather, most delegates viewed religion

³⁴ Ibid., 84.

³⁵ Jonas Phillips to the President and Members of the Convention, September 7, 1787 in *Records of the Federal Convention*, Vol. III, ed. Farrand, 79.

³⁶ Dreisbach, 'Constitution's Forgotten Religion Clause', 285.

as a reserved matter, one to be decided almost exclusively by the states.³⁷ They did not believe that Congress had, or should have, the necessary authority in this area.³⁸ They were willing to approve Pinckney's motion because they knew that it did not, and would not, threaten the constitutionality of religious tests in the states; indeed, the prohibition of a religious test for federal officeholders was a signal that the national government would not interfere with the religious settlement of any state. Maas argues that the approval of Pinckney's prohibition was a victory for the localists in the Convention, an issue that the nationalists were content to concede to their opponents because they had prevailed in other areas; however, the lack of discussion over the issue and the speed with which delegates accepted the proposal suggests that the framers' decision to maintain religion as a reserved matter was an implicit assumption rather than an explicit decision.³⁹ Most important, the delegates knew that any attempt to undermine state sovereignty in this matter would threaten the successful ratification of a plan that was, above all, designed to tackle temporal issues. Both John K. Wilson and Derek H. Davis maintain that "expedience" was the overriding factor in explaining the consensus over the prohibition of a religious test. Just as they had endeavoured to maintain a silence on the subject of religion as a means of avoiding unnecessary disputes, the framers knew that they had to eliminate any potential source of opposition to the proposed constitution by affirming the religious neutrality of the new federal government: silence on this issue was not enough because

³⁷ Lambert, *Religion and the Founding Fathers*, 252.

³⁸ Leonard W. Levy, *The Establishment Clause: Religion and the First Amendment* (New York: Macmillan, 1986), 65.

³⁹ Maas, 'Philosophical and Theological Roots', 14-16.

it could be misconstrued. The intentions of the framers needed to be clearly stated. Religion would undoubtedly create controversy and, as a subordinate issue, it could not be allowed to undermine the ratification of a document that was primarily designed to resolve political, not spiritual, problems.⁴⁰ According to this interpretation, the framers did not therefore consider the issue in separationist or accommodationist terms; they were not pro-religion, or anti-religion: they were non-religion, because they needed to be. Given the paucity of information on the discussion of Pinckney's proposal in the Convention, it is almost impossible accurately to assess the relative weight of these considerations, but it seems likely that the framers were primarily motivated by a desire to avoid unnecessary opposition to their plans by maintaining a deliberate neutrality on the subject of religion. They avoided privileging religion in government, not because they believed that religion was insignificant or politically unimportant, but rather because they understood that it was too politically important for many Americans.

This reluctance to engage with religion in a constitutional sense also contributed to the delegates' decision to reject calls for a Bill of Rights that would, almost certainly, specifically protect religious liberty. On September 12, George Mason declared his wish for a Bill of Rights to preface the proposed frame of national government, arguing that it would "give great quiet to the people".⁴¹ Elbridge Gerry of Massachusetts agreed with Mason and moved that a committee be formed to draft a Bill of Rights. However, Roger Sherman argued that, while it was essential to secure the rights of the people where necessary, a Bill of Rights was not required because the

⁴⁰ Davis, *Religion and the Continental Congress*, 134-135.

⁴¹ Farrand, *Records of the Federal Convention*, Vol. II, 587.

Declarations of Rights that prefaced the state constitutions would not be repealed by the new federal constitution. These Declarations were sufficient; no further rights need be enumerated. Responding to Sherman's remarks, Mason argued that the laws of the United States would supersede those of the states and requested a vote on the drafting of a Bill of Rights. The delegation from Massachusetts abstained and all other states rejected the motion.⁴² Not ready to be defeated, Mason composed a list of objections to the constitution, the first of them being the absence of a Declaration of Rights, and circulated them round various delegates. However, it was to no avail: the Convention saw no need for a Bill of Rights.

On September 17, the Constitution was presented to the assembly. In response, Franklin admitted that "there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them". Drawing on his many encounters with religious dogmatists, he contrasted his willingness to accept the opinions of others with most other men and most religious sects who "think themselves in possession of all truth, and that wherever others differ from them it is so far in error". It was an apt remark in light of the Convention's decision to limit the influence of religion in government. Franklin went on to say that, given the infallibility of all men, he doubted whether a better Constitution could have been framed; indeed, he was surprised "to find this system approaching so near to perfection as it does". He was satisfied that the enemies of the United States would be astonished by the Convention's work, since they would have

⁴² *Ibid.*, 588.

expected the framers to be “confounded like those Builders of Babel”.⁴³ In coming from different parts of the continent with different expectations and objectives, the framers may have spoken different ‘languages’, but Franklin seemed to believe that their work would not displease God. As the delegates were signing the Constitution, Franklin remarked that, after much consideration, he believed the sun on the back of the President’s Chair was rising, not setting.⁴⁴ Although the Convention had not prayed for God’s blessing on their proceedings, Franklin suggested that the framing of the Constitution marked the beginning of a glorious future for the United States.

Franklin had asked all the delegates assembled to put aside their objections and sign the Constitution, but three members refused: Edmund Randolph, George Mason and Elbridge Gerry; the latter two citing their concern about the lack of a Bill of a Rights amongst their objections. Once signed, the Convention sent the proposed Constitution to the Continental Congress, who then distributed it to the states for the approval of the people. Though delegates had only been empowered to revise the Articles of Confederation, where amendments required the unanimous approval of all states, the Convention controversially decided that their proposed frame of government would come into effect when nine states ratified. The framers’ had endeavoured to remove religion from the political debate over the Constitution, but, in Massachusetts and Virginia, where the religious settlement had been a source of bitter controversy, it fuelled a heated contest.

⁴³ Ibid., 641-642. Genesis 11: 1-9 describes the building of the Tower of Babel. The people, who spoke one language, decided to build a tower that would reach to the heavens, but God saw what they were doing and decided to stop their work by confusing their language so that they would no longer understand one another.

⁴⁴ Ibid., 648.

“That...undefiled Religion may universally prevail”:

Religion and Ratification in Massachusetts

On 25 October 1787, Massachusetts Governor John Hancock issued a ‘Proclamation for a Day of Public Thanksgiving in Boston’. Earlier that day, he had signed the resolutions that called a state convention to debate the ratification of the newly-drafted federal Constitution. Having now finalised all the necessary arrangements, it was an appropriate time for the citizens of the state to reflect and “acknowledge the manifold bounties of DIVINE PROVIDENCE”. Reminding the people of their obligations and duties to God, particularly at “this Important Crisis of our Public Affairs”, he instructed the clergymen of Massachusetts to offer their thanksgiving to God on the day prescribed and then told the people to pray for God’s blessing over the state Convention so that the final federal government may be one where “Benevolence and undefiled Religion” would prevail.¹

This proclamation is an illustrative example of the way in which the ratification debate in Massachusetts was conducted within a religious context. It highlights contemporary perceptions about the spiritual dimension of political affairs and points to several themes of recurrent significance in this ratification contest: the recognition of God’s sovereignty over the affairs of men; the public role of clergymen; and a concern for the future state of religion in the new nation. These aspects, together with the controversy surrounding the provision of religious liberty in the proposed

¹ ‘Governor John Hancock: Proclamation for a Day of Public Thanksgiving, Boston, 25 October’ in *Documentary History of the Ratification of the Constitution* (hereafter DHRC), Vol. IV, eds. John P. Kaminski and Gaspare J. Saladino (Madison: State Historical Society of Wisconsin, 2001), 146-48.

Constitution, the use of Biblical rhetoric in political discourse, and the Federalists' attempts to manipulate denominationalism, reveal the importance of religion in Massachusetts' ratification dispute.

In more ways than one, the Governor's Proclamation was a very fitting introduction to the ratification debate in Massachusetts. In both purpose and content, it set the tone and, in part, the agenda, of the ensuing discussion. The convictions contained in this October declaration: namely that religion was of immeasurable significance to the wellbeing of the populace; that divine guidance for civil leaders should be sought; and above all, that God should continue to show his favour to the citizens of this commonwealth, were repeatedly echoed in the correspondence, newspapers, and convention of this state in the months that followed.

Isaac Kramnick contends that the Antifederalists were offended by the secularism of the Constitution and the ensuing ratification debate. He argues that it was not only the apparent contempt for religious provision that antagonised opponents of the new federal plan, but also "the lack of any religious content in Federalist arguments for the Constitution".² This contrast in emphasis and style, he believes, was derived from differences in the political philosophy of the two groups; broadly speaking, advocates of the Constitution shared a liberal outlook which privileged the rights of individuals, while Antifederalists emphasised older republican values which

² Isaac Kramnick, 'The "Great National Discussion": The Discourse of Politics in 1787', *The William and Mary Quarterly*, Third Series, 45 (1988), 10.

focused on the importance of the collective community, manifested in their support for programmes and initiatives which encouraged the promotion of virtue in government and the wider populace. This conviction was mirrored in the Antifederalists' use of religious arguments in political debate. By contrast, Federalists who highlighted the primacy of individual rights over civic responsibilities had no philosophical compulsion to employ a religious framework in their deliberations and so, maintains Kramnick, their discourse remained wholly secular.

This judgement is unsubstantiated by the evidence available for the federal ratification debate that raged in Massachusetts between September 1787 and April 1788. Politicians on both sides regularly appropriated religious rhetoric in their publications and private correspondence. An analysis of this rhetoric reveals important details about the role of religion in the New England state and the nature of political debate at this juncture in time. Moreover, it offers a valuable insight into contemporary interpretations of the constitutional situation and the new nation.

It is almost impossible to separate the interrelated varieties of religious rhetoric and the multiple motivations behind their appropriation; however, some introductory comments can be made. At least three types of religious rhetoric can be distinguished from the debate; first, appeals to God; second, the use of Biblical references and third, manifestations of millennialism. The reasons behind the adoption of these respective forms, and the meanings they held for contemporaries are numerous. In attempting to understand the significance of religious rhetoric, there are two levels of purpose to be uncovered. The first, is the practical, or stylistic purpose that

rhetoric of this nature served. Writers and politicians were reacting to a particular set of issues at a particular point in time and the context both of the rhetoric within a specific argument and the broader context of the ratification debate in Massachusetts goes some way towards explaining the participant's choice of language and prose style. However, at a deeper level, this rhetoric served a quasi-spiritual purpose in its contribution towards the development and manifestation of what various historians have labelled 'civil religion'. The sense that Americans were a chosen people, that their Constitution was a holy covenant with God and one another, and that they were participating in a political process of epic proportions with unsurpassed implications for the history and welfare of mankind, is evidenced not only by the effusion of millennialism, but also the appropriation of Biblical language and forms in political debate.

In examining references to God and Heaven, there are two varieties to consider: first, passing remarks and second, invocations of divine authority. There are numerous examples of the first kind littered throughout private and public documents. Phrases such as "pray God", "God forbid", "Heaven grant", and "thank Heaven" were used as commonplace exclamations rather than meaningful comments. The positioning of these remarks in a publication or correspondence often served as an emphasis for the political point just made, or about to be made. For example, in a letter to Benjamin Franklin, Jonathan Williams, Sr. declared that the Constitution was the best possible frame of government, and that he therefore *prayed God* that the people would not find it "too Good or too free", else they would become "an

undon [sic] people".³ Though the phrasing of this sentiment makes it appear unlikely that he literally prayed to God about the situation, his choice of words underlines both his strength of feeling and the importance of the point he is making.

More significant than these remarks are explicit appeals to the authority of God. As Governor Hancock acknowledged the mercies of God, offered thanks for His blessings, and requested His continued guidance over proceedings, so too did the people of Massachusetts entrust the wellbeing of their nation and the outcome of the debate to His will. The most common examples of this rhetoric are, like Hancock's proclamation, generally apolitical. They recognised both the significance of the decision before the people of Massachusetts and the ultimate sovereignty of God. A typical example was published by 'A Citizen' in the *Massachusetts Centinel* in which he declared that "the New Constitution for the United States...is a concern of such vast importance to the freedom and happiness of our young nation, the people ought to bestow upon it the most serious attention, and also 'ask wisdom of God who giveth to them who ask it'".⁴

Most invocations of God's name included a plea for blessings and guidance, particularly for the delegates to the Convention who would ultimately make the decision for the state. In spite of, or perhaps because of, the rampant factionalism that characterised the debate, there were appeals to God that disinterestedness and virtue would prevail in the Convention. Most town instructions, however, simply proclaimed a desire that His will would be done. Declarations like this made by Northampton and Easthampton

³ 'Jonathan Williams, Sr. to Benjamin Franklin, Boston, 10 October, 1787' in *DHRC*, Vol. IV, 65.

⁴ 'A Citizen, *Massachusetts Centinel*, 16 October, 1787' in *ibid.*, 45.

were echoed across the state: "we beseech the all-wise Governor of the world to take the Convention under his holy influence, that the result may be THE BEST GOOD OF THE PEOPLE OF THE UNITED STATES OF AMERICA".⁵

It is by no means a certainty that these invocations were derived from a genuine sense of religiosity. There is no adequate means of quantifying religious belief in this case, since many of the examples were found in anonymous opinion pieces or proclamations issued by a community. However, doubts over the religious convictions of the authors do not necessarily make these examples, or the ritualistic invocation of God, insignificant. Rather, the prevalence of this rhetoric points to the continued centrality and significance of God and religious themes in the public political discourse of Massachusetts.

During the Revolution, Americans looked to the Bible to provide guidance for their situation, first in their dealings with the British government, and second, in their struggle for independence. As James H. Smylie has argued, "Americans read it to gain meaning about human nature and destiny, what was happening to them in the eighteenth century, and their own sense of identity and direction in a world of nation states".⁶ Every colonist was familiar with the Bible and it was therefore a common reference point for polemicists seeking to make their point known to as broad an audience as possible. Thomas Paine's use of biblical references in *Common Sense* was, of course, possibly the most famous example of this technique.⁷ Though he could be contemptuous of scripture, Paine was aware of the

⁵ 'Instructions, Hampshire Gazette, 28 November, 1787' in *DHRC*, Vol. V, 998.

⁶ James H. Smylie, 'America's Political Covenants, the Bible and Calvinists', *Journal of Presbyterian History*, 75 (1997), 154.

⁷ Eric Foner, *Tom Paine and Revolutionary America* (New York: Oxford University Press, 1976).

Bible's cultural and political significance in the colonies. He understood that the most effective means of expressing an argument was made most effective by mediating it through Biblical language and common expressions.

The use of Biblical references in the literature of the ratification debate was similarly motivated by an awareness that they were familiar and meaningful. However, while many writers during the Revolution favoured quotations from Exodus to demonstrate the correlation between the plight of the Israelites and that of the Americans, or Revelations, to point to the millennial characteristics of the struggle, writers in 1787 were more varied in their approach. Politicians and commentators at this time were addressing a myriad of issues around the central question of federal union. It is therefore unsurprising to find that no one book of scripture dominated the newspaper reports and other public documents during this ratification debate. Writers found Genesis and 1 Samuel as relevant and instructive as the Gospels of Matthew and Luke in their search for biblical guidance or support.

Given Issac Kramnick's comments about the offence taken by the Antifederalists at the secular nature of their opponent's rhetoric, it is interesting to note that the vast majority of Biblical quotations are to be found in the literature of the Federalists. As some writers strategically dropped a reference to God or Heaven into their argument, others employed quotes from scripture to clarify or reinforce their point, or to express an opinion that they themselves could not do as effectively. 'Observer' was one such polemicist who adopted this stylistic tactic by quoting Genesis 50:18-20 in his address to Shay's rebels. Satisfied that their disturbance had prompted the framing of a stronger constitution, he declared that "ye meant

these things for evil, but GOD meant them for good".⁸ The use of quotations like this secured the attention of the reader and increased the likelihood that the political point being made would be remembered in the weeks to come. Original prose, however eloquent, was often simply not as memorable and therefore not as effective. In this way, Biblical quotations functioned as political slogans. They were instantly recognisable and encouraged identification with the argument presented. A quotation positioned at the beginning of a paragraph or article set the tone for what followed, while a quotation at the end of a piece functioned as a climactic means of encapsulating the argument in a concise and meaningful manner. There was, of course, also the added impact of an endorsement from a higher authority. Politicians who quoted Scripture to support their argument were able subtly to invoke divine sanction for their cause, thus increasing the power and persuasiveness of their message.

In addition to quoting directly from Scripture, writers also regularly used Biblical references and allusions in their arguments. Antifederalist Thomas B. Wait compared the address of the Seceders in the Pennsylvania Legislature with "the Thunder of Sinai" and one anonymous pamphleteer warned the people against the Constitution by comparing it to the deadliness of Aaron's serpent. In launching loaded attacks on their opponents, Federalists claimed that the Antifederalists were rejecting the political salvation of the nation "like the expulsion of the Caanites of old" and that they were the Pharisees of the eighteenth century who hypocritically professed concern for religion but ignored the plight of public creditors. The popularity of religious allusions in the political discourse of this state can be

⁸ *Independent Chronicle and the Universal Advertiser* (Adams and Nourse, October 4, 1787).

understood largely in terms of its particular cultural heritage and they undoubtedly performed an effective stylistic purpose in contemporary political debate. Their appropriation, particularly by the Federalists, highlights the emotive and often vitriolic nature of the competition. Alongside the aforementioned scriptural attacks, repeated references to demons of discord and the 'zealousness' of opponents suggest that the debate in Massachusetts almost took on the character of a religious dispute itself.

Certainly, the people of this New England state did not view the contest in wholly secular terms. In more explicit terms than Governor Hancock had previously favoured, sentiments like those of Ezekiel in the *Independent Chronicle* were far from unusual: "In the whole creation, cannot be found a people so highly favored by GOD; nor in the volume of ages, can we find a nation, at our age, so great".⁹ In recognising and utilising this conviction as a legacy both of their Puritan heritage and the Revolution in particular, Federalist writers sought to draw comparisons between the struggle for independence and that of ratification.¹⁰

An integral part of being a chosen people was the covenantal relationship Americans enjoyed with God and one another. This found common expression in Federalist and Antifederalist references to the liberties and privileges of the people as 'sacred'. These were viewed as gifts from God, to be safeguarded appropriately. However, the conviction that government was a covenant also carried an important political significance to this debate. It is well known that two of the principal objections of the

⁹ *Independent Chronicle and the Universal Advertiser* (Adams and Nourse, October 25, 1787).

¹⁰ *Boston Gazette and Country Journal* (Edes, November 12, 1787).

Antifederalists to the proposed Constitution were that it was, first, a completely new frame of government, rather than a revision of the Articles of Confederation and that, second, it required the assent of only nine states to come into effect. The literature in the Massachusetts press suggested that the plans for the new Constitution and the proposed ratification process were primarily unacceptable to the Antifederalists because they violated the sacred agreement entered into by the American people and God when the Articles were signed. 'Vox Populi' declared that the oath taken to abide by the Articles was "registered in Heaven" and that it would therefore be a sin to establish a new government.¹¹ Similarly, in the *American Herald*, Portious reminded the people of his state that they had "pledged their sacred honour to stand by and adhere to said Articles of Confederation until they are mutually altered by the joint consent of the Legislature of each State" and warned that any four states who refused to ratify could, with the support of God, accuse the other nine states of "open REBELLION against the *National Constitution*".¹²

The conviction that Americans were participating in a spiritual event of epic proportions was closely tied to their self-perception as a chosen people and their interpretation of government as a holy contract with God. The significance of the ratification decision, for the future well being of America and the rest of the world, was consistently emphasised by Federalists and Antifederalists alike. Both groups were aware that the successful passage of the Constitution represented a major victory for the new frame of government and its supporters since this New England state

¹¹ 'Cassius II, Massachusetts Gazette, November, 23, 1787' in *DHRC*, Vol. IV, 308.

¹² *American Herald* (Powars, November 12, 1787).

had provided the Constitution with its first critical hurdle. Not only did the political significance of Massachusetts ensure that any national plans of government required the approval and involvement of this state for viable implementation, but the division between Federalists and Antifederalists was also almost equal; a notable departure from the situation in other states, where the Constitution had already been ratified with limited opposition.

Federalists therefore likened the proposals to a plan of national salvation that would rid America of further tyrannies and secure the liberties promised by the Revolution. One forthright commentator declared in the *Hampshire Gazette* that the Constitution was the “last opportunity which an indulgent Providence, ‘tis likely, will ever grant you, to save your country from tumbling into ruin” and that “Heaven itself” demanded its ratification.¹³ Supporters of the Constitution promised the dawning of a new age, the millennium, upon ratification of the proposals. Some of these visions harked back to the Old Testament and the land of Canaan, while others were more general depictions of an age when the nation was free and prosperous. This portrayal of the United States as the sole beneficiary of God’s blessing, and the national identification with the Promised Land continued the tradition of Revolutionary polemicists and contributed to the development of American civil religion in this region.

Five days before Hancock’s Proclamation, the *Massachusetts Gazette* had reprinted a story that attributed Benjamin Franklin’s unfailing support for

¹³ ‘Monitor, Hampshire Gazette, October 24, 1787’ in *DHRC*, Vol. IV, 118.

General Pepperdell in the War of Independence to his assured belief that “all the praying people in the country were on his side”. In the same way, it was argued, the people may be sure that the new Constitution will be ratified, “since the Ministers and Christians of all denominations are now engaged in praying for it, and there is no good reason to believe that *no prayers* have as yet been offered up against it”. Circulated by a further four newspapers in the state, it received a reply from ‘Lycurgus’ nine days later in the *American Herald*. Though the author criticised the report’s demonisation of the Constitution’s opponents, he praised the involvement of the clergy in the ratification debate, declaring that: “I take it to be a privilege which of *right* they ought to enjoy, and a *duty* which they ought to perform”.¹⁴

The political involvement of individual clerics was evident from the early stages of the ratification debate. One of the first published addresses on the federal Constitution appeared in the *Hampshire Gazette* on 5 September, while the Philadelphia Convention remained in session. Entitled ‘Political and Moral Entertainment, it was rumoured to be authored by a western clergyman who styled himself ‘Numa’. Previously a vocal opponent of Governor Hancock’s administration, his focus in this article was on the number of perilous dangers facing the state of Massachusetts. Maintaining that “the people are so corrupt that the fire of judgement can only purge away their dross”, Numa declared his support for a stronger federal government which he believed was the only way to “remove the evils which we experience, and secure to us the permanent enjoyment of the best civil blessings”. If such a plan was presented to the state legislatures by the framers of the Constitution, the people should “embrace it with gratitude,

¹⁴ *American Herald* (Powars, October 29, 1787).

and support it with gratitude," for it was nothing less than "heaven's rich gift".¹⁵

This initial public support for the Constitution from a member of the clergy was echoed by subsequent preachers in their private writings. On September 29, the Boston pastor of the Congregational Church in Long Lane expressed his satisfaction with the new proposals, and on October 3, fellow Congregational minister, William Bentley, wrote in his diary that he hoped the Constitution would be passed, "in spite of prejudiced men".¹⁶ Unfortunately, available sources do not adequately reveal the reasoning behind the early Federalism of some clerics. However, we do know that like 'Numa', Jeremy Belknap had been sincerely troubled by the rebellion in the western counties the previous winter and he similarly believed that the proposed Constitution "strikes at the Root of such Evils as we have suffered by the madness of sovereign State Assemblies".¹⁷

By November, these private sentiments had become public knowledge as newspapers began carrying surveys of Federalists and Antifederalists by profession and locale. It was regularly noted that "the most active and zealous promoters" of the Constitution were either civil or military leaders, clerics, lawyers or independent yeoman farmers, "in short, every man who supposes that the present unsettled state of affairs is owing to the want of government".¹⁸ In commentaries on the contest, clergymen were rarely

¹⁵ 'Numa, Political and Moral Entertainment VII, Hampshire Gazette, September 5, 1787' in *DHRC*, Vol. IV, 9.

¹⁶ 'Jeremy Belknap to Ebenezer Hazard, Boston, September 29, 1787' in *ibid.*, 23; 'William Bentley Diary' in *ibid.*, 32.

¹⁷ 'Jeremy Belknap to Ebenezer Hazard, Boston, December 8, 1787' in *ibid.*, 403.

¹⁸ *Massachusetts Centinel* (November 7, 1787). See also 'A Federalist' in *Boston Gazette and Country Journal* (Edes, December 3, 1787); 'Massachusetts Centinel, January 12, 1788' in *DHRC*, Vol. V, 704; 'Henry Knox to George Washington, New York, January 14, 1788' in *ibid.*, 707; *Boston Gazette and Country Journal* (Edes, January 14, 1787).

singled out for particular note. Rather, they were most often grouped with other notables to emphasise the weight of authority in the Federalist party: their political significance was derived from the position of influence they held in the community rather than their role as religious leaders.

This marginalisation was somewhat corrected by the publication of 'An Association of Christian Ministers to the Public' in the *Essex Journal* on January 2, 1788. Individual ministers had already been discussing the Constitution and the political situation in Massachusetts for several months, but this was the first time that clerics had made a formal announcement as a group and, more important, in their capacity as religious leaders. Though it was not an overtly partisan statement, it was an important political declaration; not only did it highlight the spiritual dimensions of the debate, it refocused attention on the clergy as central figures in the leadership of the state. No similar statement was issued from the lawyers, judges, military officers, merchants or legislative representatives in Massachusetts.

The Association began by asking the people to offer their thanksgiving to God for His blessings of peace and happiness in the aftermath of Shay's Rebellion, before requesting prayers for the national ratification process. Their comments on the Federal Constitution were almost apolitical, but it is quite clear that the Christian ministers in question were generally in favour of the plans framed in Philadelphia. Arguing that it was essential for Congress to have "necessary powers to preserve faith and credit", and that the proposed system provided "energetic government for national matters", they asked the people to pray for God's intervention and encouragement. This was first to make certain that each state organised a

ratifying convention and, second, to ensure that delegates were blessed with the necessary wisdom to establish a national government that would protect liberty and promote virtue. As would be expected, the ministers then took the opportunity afforded by the statement to emphasise the “infinite importance” of spiritual concerns over those of this world, ensuring that citizens remained ultimately focused on God and godliness. This was not only because the clergy, amongst others, believed that true religion was the best foundation for good government. They appear to have been equally concerned with the salvation of individual souls as they were with the nation’s redemption.¹⁹

The active involvement of clergymen provoked opposition from some writers; indeed, there was an identifiable strain of anticlericalism in the political discourse of this debate. One of the most virulent attacks on ministers and the public role of the clerical office appeared in the Federalist press. On October 2, ‘Cassius’ responded to ‘Numa’ in the *Massachusetts Gazette*. Despite his support for the Constitution, ‘Cassius’ issued a vicious diatribe against the participation of a cleric in political discussions. Appropriating the loaded rhetoric of anti-Catholic polemicists, he denounced politically active ministers as ‘Jesuits’ and declared that they were one of the greatest threats to the liberty and security of Massachusetts. Distinguishing between the citizens’ situation before and after the Revolution, he argued that citizens under a despotic government were susceptible to the corruptible influence of the clergy, whereas the newly independent Americans were vigilant against such interference. Refusing to attribute the clerical profession

¹⁹ ‘An Association of Christian Ministers to the Public, Essex Journal, January 2, 1788’ in *DHRC*, Vol. V, 600-01.

with any virtuous or honest intentions, he asserted that “*Political Jesuits...have generally been the curse of almost every country that has cherished them*” and concluded that they were a greater danger to the people than “a set of infernal fiends, let loose from the dreary mansions of Beelzebub”.²⁰

‘Cassius’ was unique among anticlerical commentators; most attacks on the clergy came from opponents of the Constitution whose criticism can be seen as a tactical response to the clergy’s perceived alignment with the Federalist cause. One of the first criticisms of the clergy’s support for the Constitution appeared in the *American Herald* on January 7, 1788. Adopting the popular Antifederalist approach of drafting a newspaper report from the future in order to highlight the potential dangers of the Constitution, the correspondent called on the clergymen of the state to welcome and pray for the new King of All America, as they had done so diligently for the federal Constitution, the “sole cause of this happy Revolution”.²¹

With the intention of undermining the political leverage of clerical support for the Constitution, several commentators questioned the influence and respect upon which ministers were able to draw. In an article published in the *Massachusetts Gazette*, ‘The Yeomanry of Massachusetts’ argued that common people were the best judges of their own future and that they would not be manipulated by the eloquence of clerical leaders.²² Similarly, New York observer Charles Tillinghast explained to correspondent Hugh Hughes that his growing opposition to the Constitution was largely derived

²⁰ ‘Cassius, *Massachusetts Gazette*, October 2, 1787’ in *DHRC*, Vol. IV, 31-32.

²¹ *American Herald* (Powars, January 7, 1788).

²² ‘The Yeomanry of Massachusetts, *Massachusetts Gazette*, January 25, 1788’ in *DHRC*, Vol. V, 803.

from a survey of Federalists in Massachusetts, a significant number of whom were members of the clergy. His anticlericalism was derived from careful attention to their seemingly proud conversation and manner, which, he argued, was antithetical to their preaching. It was not only their hypocrisy, however, that prompted his censure of the clergy and the Constitution they supported. Tillinghast was concerned that the proposals did not exclude ministers from civil office and that they would seek to secure political power when the Constitution was ratified, with all the attendant threats this posed to the new nation.²³

Anticlericalism was not only to be found in direct attacks on the office of prominent Federalists. In one report, a disparaging story about the sexual indiscretions of a clergyman was relayed to highlight a particular political point about the sovereignty of the Articles of Confederation. Refuting Federalist assertions that it was lawful to disregard the Articles because certain clauses had previously been breached, 'Vox Populi' illustrated his argument with reference to the tale of an Indian woman who insisted that there were only nine commandments after the preacher had broken one of them with her the previous night.²⁴ Though this appears to have been an isolated analogy, the author's decision to choose a damning tale about the clergy to emphasise his point raises questions about popular perceptions of the clergy and their role in society at this time.

It is evident that writers used anticlericalism as an effective means of discrediting the opposition, but its prevalence across the political spectrum points to an underlying, widespread scepticism about clerical involvement in

²³ 'Charles Tillinghast to Hugh Hughes, New York, January 27-28, 1788' in *ibid.*, 811.

²⁴ 'Vox Populi, Massachusetts Gazette, November 13, 1787' in *DHRC*, Vol. IV, 223.

public political life, and the ministry in general. Even when pastors were performing the duties of their office, they were met with hostility from some quarters. It is clear that there were definite political risks in attracting the visible support of the clergy, particularly when the issue was as contentious as the ratification of the federal Constitution. Charles Tillinghast's contempt for the clergy was a precursor to, rather than the result of, his Antifederalism and it appears that press reports linking the clergy with the Federalist cause were as likely to create opponents as supporters.

From the early days of the debate over the Constitution, the magnitude of the decision facing the American people was a common feature of newspaper articles and pamphlets in Massachusetts. On October 30, an essay printed in the *Massachusetts Gazette* declared that: "the most important question that was ever proposed to your decision, or to the decision of any people under heaven, is before you".²⁵ Both Federalists and Antifederalists focused on the ultimate outcome of the ratification debate for America's virtue and prosperity, with forecasts of blessings and good fortune if the people concurred with the writer or prophecies of doom if the state rejected his advice. Some were written in an optimistic tone, with the aim of encouraging support for the position being advocated, while more pessimistic pieces were designed to instill fear into readers as a means of dissuading them from supporting the other side. 'A Watchman', writing in the *Worcester Magazine* in February 1788, highlighted the dangers, rather than

²⁵ 'Massachusetts Gazette, October 30, 1787' in *ibid.*, 171.

the opportunities, which faced Americans at this political juncture. Specifically addressing the threat to religious liberty, he emphasised the pressing nature of the decision laid before the people of Massachusetts, declaring that “now is the time for us to look out; now is the time for us to take care; now is the time for us to see that nothing is done to deprive us of our religious, or our civil liberties”.²⁶

The protection of these liberties often served as a touchstone for support or rejection of the proposed Constitution. The author of the article published in the *Massachusetts Gazette* on October 30, gave the people a simple gauge by which they should measure the Constitution. If, as the writer suggested, the proposals from Philadelphia were “calculated to preserve the invaluable blessings of liberty, to secure the inestimable rights of mankind, and promote happiness, then, if you accept it, you will lay a lasting foundation of happiness for millions yet unborn”. However, if they contained “principles that will lead to the subversion of liberty – if it tends to establish a despotism, or, what is worse, a tyrannick [sic] aristocracy; then, if you adopt it, this only remaining asylum for liberty will be shut up, and posterity will execrate your memory”.²⁷

The Antifederalists’ conviction that the Constitution was indeed “Subversive of Liberty and Extreemly [sic] dangerous to the Civil and Religious rights of the People” formed a major feature of their campaign.²⁸ ‘A Watchman’ in the *Worcester Magazine* compared the liberties protected under the Articles of Confederation with the dangerously innovative proposals now presented to the states. He praised the democratic nature of the

²⁶ “A Watchman’, *Worcester Magazine*, February 7, 1788’ in *ibid.*, 880.

²⁷ ‘Massachusetts Gazette, October 30, 1787’ in *ibid.*, 172-73.

²⁸ ‘Paxton Instructions, January 2, 1788’ in *DHRC*, Vol. V, 1003.

Continental Congress which ensured that “the power is in the people; we are allowed to choose our own rulers, make our own laws, and perform religious worship according to the dictates of our own consciences”. By contrast, the new Constitution contained no bill of rights and more specifically, “there is no liberty given to the people to perform religious worship according to the dictates of their consciences”.²⁹

Fears about the security of religious freedom were generally centred on the absence of a bill of rights that would have provided constitutional protection for the liberties Americans had enshrined in their state constitutions. Even John Adams was concerned by the omission.³⁰ Few Antifederalist writers expanded on the likely consequences of this oversight, but, given the predictions of those who did, it can be surmised that their main concern was the establishment of a national religion. On December 6, the *Independent Chronicle* published an article by ‘Z’, who argued that the federal government should recognise the sacred nature of certain liberties – liberties that could neither be given away by the people, nor infringed by the government. These included the rights of conscience which, if not protected under the Constitution, would be threatened if Congress ever tried to favour one sect over another or, worse still, establish one religion across the country. This not only endangered the security of every church in Massachusetts, Congregationalist and dissenter alike, it also introduced the prospect of clerical interference in the civil sphere. He recalled the warnings of Jonathan Mayhew, a mid-century Congregationalist minister who had preached about the peril of an Anglican bishopric in New England. Partly justified by history

²⁹ ‘A Watchman, Worcester Magazine, February 7, 1788’ in *DHRC*, Vol VI, 880.

³⁰ ‘John Adams to Thomas Jefferson, London, November 10, 1787’ in *DHRC*, Vol. IV, 212

and partly by an ideological conviction about the correlation between religious and civil liberty, Mayhew had argued that the freedom of the people in Massachusetts was in danger from a system of ecclesiastical authority which impinged on the jurisdiction of the civil sphere. 'Z' argued that this threat was being renewed by the omission of constitutional protection for religious liberty: "lordly priests" would establish a hierarchy "which has ever been the grand engine in the hand of civil tyranny", and in return, "tyrants...will afford them opportunity enough to vent their rage on stubborn hereticks [*sic*], by wholesome severities, as they were called by national religionists, in a country which has long boasted its freedom".³¹

The Federalist's defence of the Constitution in this regard was often as limited as their opponents' attack; at least in the public debate that preceded the Ratifying Convention. While Antifederalists derided the Constitution as subversive or dangerous to religious liberty, without explicitly detailing their reasons for believing so, supporters of the new form of government often simply praised the framers for plans which were "calculated, to support, and transmit, inviolate, to the latest posterity, all the blessings of civil and religious liberty".³² In an argument that repeatedly surfaced in Federalist literature, authors emphasised the divergent nature of Old and New World governments; in declaring their independence, the American people had not only rid themselves of British authority but the whole burden of corrupt and tyrannous government. In its place, they were creating a new system for a new age, based on the principles of liberty and equality. A typical example of this was to be found in the *Worcester Magazine* on 22 November, in which the

³¹ "Z", *Independent Chronicle*, December 6, 1787' in *ibid.*, 374.

³² 'Cassius VI, *Massachusetts Gazette*, December 25, 1787' in *DHRC*, Vol. V, 514.

'Worcester Speculator' waxed lyrical about the "peculiar" place America had been guided to by divine providence, in which the "clouds of ignorance" had been dissolved, the "rays of knowledge" shone forth, and the people were blessed with "advantages...which have seldom if ever fallen to the lot of any people or nation on earth".³³ This was an important point with which to rebuff demands for a federal bill of rights. Unlike those in the Old World, the people in America enjoyed freedom from birth and did not need to have it granted to them by the government. Having been born with certain rights, Americans also had certain duties to perform if their government was to avoid sliding into legislative tyranny.

The controversy over religious testing for officeholders was inextricably linked to that over the constitutional protection of religious liberty; indeed, both supporters and opponents of Article IV understood the debate as a different side of the same issue. Those who supported the provision argued that it protected religious liberty because it prevented office holders from religious discrimination. Those who rejected the article believed it to be a further attack on religion and therefore detrimental to the security of religious liberty.

The Antifederalists opposed the prohibition of a religious test because they did not share the optimism of the Federalists about the virtue of future Americans. Just as they had suspected Congress would attempt to subvert

³³ 'The Worcester Speculator' VIII, Worcester Magazine, November 22, 1787' in *DHRC*, Vol. IV, 300.

their religious liberties by introducing a national church or abolishing religion all together, Antifederalists were concerned that the highest offices of the land would be filled by men unsuitable for positions of power and responsibility because they had no respect for the guiding principles of freedom and morality in government. Antifederalists who supported religious tests did so because they believed that religion had an important role to play in safeguarding the new nation and its government.

This may have been because they conceptualised American history in sacred terms; that is, the story of divine providence working its course. 'Samuel' argued that the prohibition of a religious test explicitly rejected religion and cautioned that this would be the first step in a dangerous course towards the total ruin of the nation. Reminding the American people of their debt to God for this guidance and salvation in the Revolution, which they were subsequently forfeiting by excluding His influence from federal government, Samuel warned:

We may justly expect, that God will reject us, from that self government, we have obtained thro' his divine interposition. Or being able to keep up government and order among us...If civil rulers won't acknowledge God, he won't acknowledge them; and they must perish from the way.³⁴

Many other Antifederalists supported a religious test because they believed that a certain religious disposition was the measure of honourable and virtuous political sentiments. These were essential qualities for American leaders if the nation were to continue to enjoy the benefits of civil liberty and commercial prosperity. 'Remarker ad corrigendum' in the *Massachusetts Centinel* noted the role of religion in ancient republics where morality was

³⁴ *Independent Chronicle and the Universal Advertiser* (Adams and Nourse, January 10, 1788).

considered an essential attribute for all leaders and citizens. The same, he believed, ought to be case for the American republic:

The mind that has lost its regard and veneration for virtue, must be too callous to those sentiments that form good members of civil society in the private ranks of life, and much more so those generous feelings, which fit a man to act with dignity and fidelity in the publick [sic] offices of State.³⁵

Both the fear of non-Protestants in office and the repudiation of their Puritan heritage troubled other Antifederalist supporters of a religious test in Massachusetts. 'Samuel' in the *Independent Chronicle* argued that the powers of the president posed a threat to national security because there was no provision for protecting the office from pagans or Muslims.³⁶ 'A Watchman' in the *Worcester Magazine* warned that the laxity of the Constitutional framers had opened a door for "Jews, Turks and Heathen" to head up the federal government.

These views, and broader concerns about religious provision, were shared by other citizens in Massachusetts. In electing delegates to the Ratifying Convention, many towns recorded their approval or disapproval of the Constitution and provided their representative with instructions on how to vote at the Convention. While some election returns are unavailable, incomplete or uninformative, it is clear that some towns and their delegates were motivated to support or reject the Constitution on the basis of its religious provisions. Just as William Jones declared that "one of his principal objections, was the omission of a religious test", so Baptist Isaac Backus justified his decision to stand as a delegate in the Ratifying Convention

³⁵ 'Remarker ad corrigendum, Massachusetts Centinel, January 16, 1788' in *DHRC*, Vol. V, 732.

³⁶ *Independent Chronicle and the Universal Advertiser* (Adams and Nourse, January 10, 1788).

because “religious liberty is concerned in the affairs, and many were earnest for my going”.³⁷

At least five towns across the state instructed their delegates to vote against ratification, in part because they feared that the Constitution was a threat to religion: Harvard and Paxton in Worcester County; Belchertown in Hampshire County; Fryeburg in York County and Townshend in Middlesex County. The people of Belchertown instructed their delegate to vote against ratification, in part because the Constitution admitted Catholics into government.³⁸ Their reasoning for this was that “it has Ever been the Principale [*sic*] and Practice of the Papists to Persicute [*sic*] those of the Protestant Religion”, thus couching their demands for a religious test within the language of religious liberty. The people of Townshend were particularly concerned about religious liberty and religious provision. Calling on their American heritage, residents argued that a demand for all civil officers to be “professors of the true religion and apparent friends to it” had been a faithful conviction “of all wise & good men among us from the first Settlement of this country”. In attempting to undermine this provision, the framers and all those who supported their plans were undermining the very tradition and foundation of American government. Their reference to “true religion” is instructive, for if Antifederalists were concerned about the religious laxity of certain prospective officeholders, they were equally, if not more so concerned about the prospect of national leaders who subscribed to a faith different to their own. While exhibiting some sign of grudging toleration in

³⁷ ‘William Jones: Speech in Ratifying Convention, January 31, 1788’ in *DHRC*, Vol. VI, 1377; ‘Isaac Backus Diary, January 1788’ in *DHRC*, Vol. VII, 1593.

³⁸ “A Watchman’, *Worcester Magazine*, February 7, 1788’ in *DHRC*, Vol. V, 881; ‘Belchertown: Instructions to Delegate Justus Dwight, December, 17, 1787’ in *ibid.*, 902.

their concession to admit “any Denomination of Protestants who hold the fundamentals of our religion”, they demanded that “Atheists Deists Papists or abettors of any false religion” be excluded from government. In their justification for this, the people of Townshend argued that their forefathers had emigrated to America and struggled through “Such dangors & destresses [*sic*] as Should never be forgotten” because they cherished their religious liberties; this included not only the free exercise of their Puritan religion but also the protection of civil government from the tyranny of those who practised “infidelity” or “idolatry”. Phrasing their opposition to the federal Constitution in line with the kind of religious liberty supported in Massachusetts, they emphasised the dual importance of protecting private faith while providing legislative support for a public, Protestant religion. These principles of state government were not contradictory, but rather elements of the same provision to promote the practice of true religion. It was the conviction of the people of Townshend that such a beneficial system ought to be repeated at federal level, for it was necessary to provide the same degree of authority to a continental Congress as had been given to the state legislature if the religious privileges of the people in Massachusetts were to be protected.³⁹ In their instructions to delegate Daniel Adams, they pointed to the religious privileges secured in Massachusetts and argued that the same standards should be maintained at both state and federal level:

In the Bill of rights for this Commonwealth it is declar'd that the happiness of the people, & the Preservation of civil government depend upon piety religion & morality; & that the people have a right to invest their Legislature with Power to require that provision be made for the public worship of God & the Support of protestant teachers; & require the attendance of People upon Such worship &

³⁹ ‘Townshend: Instructions to Delegate Daniel Adams, December 31, 1787’ in *ibid.*, 1056-57.

instructions – And is it not of as much consequence that a continental Legislature be vested with Such authority as a State Legislature but what Purpose will it answer if they are not abettors of the Protestant Religion...we must insist that the Continental Constitution Contain a Bill of Rights which by Express declaration will Secure to us our privileges especially our religion and Such rulers to Support it as we can put Confidence in & while we view them as fri[e]nds to the great Author of our religion, may expect his Presence with them, that they may be ministers of God for the Good of his people for the interest & for the honour of his Name.

Religious controversies also played a more subtle role in the ratification dispute. Arguments about religious liberty or the appropriate role of religion in the new republic were often linked to broader concerns in the debate between Federalists and Antifederalists. 'A Friend to Honesty' in the *Independent Chronicle*, even linked the dispute over the protection of religious liberty to the debtor issue, accusing Antifederalists of being Pharisees for declaring their religious concern for the future of the nation, while refusing to honour their debts, secured in the name of God.⁴⁰ More generally, the campaign to secure a bill of rights which would protect religious freedom highlighted concerns about the relationship between state and federal jurisdictions; specifically, the loss of local control over affairs in Massachusetts. Kenyon argues that the Antifederalists were localists who feared the security of a republican government over a large and heterogeneous territory. Their fears about national, or 'outside' interference in their affairs was reflected in their support for both the constitutional protection of religious liberty and a religious test for officeholders. They were protective of the religious establishment in Massachusetts and feared the impact of closer association with more 'irreligious' states. In particular,

⁴⁰ *Independent Chronicle and the Universal Advertiser* (Adams and Nourse, January 10, 1788).

Pennsylvania and Rhode Island were attacked for their policy of welcoming dissidents. This growth in prosperity and population, however, was “at the expense of religion and good morals”. By contrast, ‘Agrippa’ argued that the New England states “have, by keeping separate from the foreign mixtures, acquired their present greatness in the course of a century and a half, and have preserved their religion and morals”.⁴¹ All of this was threatened by a federal Constitution that did not make adequate preservation for religion. Furthermore, the Antifederalists’ insistence that religion should be enshrined into and protected under the Constitution reflected their pessimistic view of human nature. They believed that all men were inherently self-interested and therefore needed to be both constrained by the moral forces of religion while prevented from infringing the sacred rights of others.⁴² Similarly, the Federalists’ lack of support for a bill of rights reflected their optimism about the golden age of enlightenment. While their emphasis on the responsibilities of citizens, rather than religious tests, to ensure that governments continued to promote liberty and virtue reflected their broader concerns about limitations on the constitutional authority of the people.

Shortly before the delegates gathered in Boston for the state Ratifying Convention, John Quincy Adams noted in his diary that “in this Country religious bigotry is almost entirely done away”.⁴³ Though he was concerned

⁴¹ ‘Agrippa IX, Massachusetts Gazette, December 28, 1787’ in *DHRC*, Vol. V, 540.

⁴² Cecelia M. Kenyon, ‘Men of Little Faith: The Anti-Federalists on the Nature of Representative Government,’ *William and Mary Quarterly*, Third Series, 12 (1955), 13.

⁴³ ‘John Quincy Adams Diary, Newburyport, December 1, 1787’ in *DHRC*, Vol. IV, 344.

that men were often still prejudiced against their political opponents, he was pleased that religious affairs were now conducted with a collective sense of toleration. The animosity and suspicion of difference that had characterised denominational relationships in the past were now apparently resigned to the sphere of partisan politics. There was, he believed, a willingness amongst religious groups to work together for the common good. This positive assessment was supported by the remarks of a Convention observer in the *American Herald*, who noted that the assembly was “perhaps one of the compleatest [*sic*] representations of the interests and sentiments of their constituents, that ever were assembled. No liberal or mechanic profession, no denomination in religion, or party in politicks [*sic*], are excluded”.⁴⁴

It is clear from these extracts that there was a degree of contemporary optimism about the state of denominational relationships in Massachusetts. The comments indicate a growing sense of harmony between the different religious groups that, in turn, may suggest denominational affiliation was becoming an increasingly insignificant point of departure for the interpretation of politics in Massachusetts. Yet, explicit references to religious bigotry and the equitable representation of religious groups in a deliberating assembly suggest that denominationalism, even without its analogous political alignments, remained a significant feature of Massachusetts society. It may have been an increasingly less contentious issue, but denominationalism was sufficiently significant to warrant comment by Adams and the newspaper correspondent. There is a sense in both these examples that, as they debated the merits and faults of the federal Constitution, contemporaries were simultaneously navigating a transitory

⁴⁴ *American Herald* (Powars, January 14, 1788).

phase from interdenominational hostility to a period of potential peaceful co-existence. Adams' careful wording, "almost entirely done away", suggests that the relationship between religious groups was not yet wholly harmonious.

In addition to the persistence of denominationalism in Massachusetts's society, there is strong evidence to suggest that religious identity and affiliation continued to influence political persuasion and debate. Though not nearly as pronounced or definitive as the situation in Pennsylvania where "conflicts based in religious differences formed the most persistent and predictable component of political partisanship", the ratification debate none the less demonstrated that, in Massachusetts, denominational politics could not easily be separated from the broader political questions or the arena in which they were discussed.⁴⁵

The largest religious group in Massachusetts at this time was, of course, the Congregational Church. It far outnumbered all other denominations in terms of numerical strength, political influence and cultural dominance. Its position in society was enshrined in the state Constitution of 1780, which provided public financial support for Congregational clergymen and the maintenance of meeting houses. In 1790, there were 330 Congregational churches while the second largest denomination, the Baptists, had less than a quarter of this number.⁴⁶ Other religious groups in Massachusetts included Quakers, Roman Catholics, Episcopalians, Universalists, Shakers and Sandemanians.

⁴⁵ Owen S. Ireland, 'The Crux of Politics: Religion and Party in Pennsylvania, 1778-1789,' *The William and Mary Quarterly*, Third Series, 42 (1985), 454.

⁴⁶ Jonathan D. Sassi, *A Republic of Righteousness: The Public Christianity of the Post-Revolutionary New England Clergy* (Oxford: Oxford University Press, 2001), 25.

Only four of these denominations had members active in the ratification debate: the Congregationalists, Baptists, Quakers and Sandemanians. Members of other churches may have been involved as polemicists or delegates, but they did not identify themselves as such in debate and are therefore excluded from consideration since denominationalism in this (political) context was self-conscious and publicly expressed. By a similar token, the hegemony of the Congregationalists positioned them on the periphery of denominational politics. As the religious establishment in Massachusetts, they did not readily assume the identity of a denomination. They were not simply one of many religious societies and this was recognised both within and without the Church; they were the foundation, the standard against which other denominations identified themselves. Despite the challenges of division and dissent that threatened to undermine the unity and dominance of the standing order, they remained confident in the security of their position. The virtually seamless integration of the Church within the political and cultural fabric of the state was reflected in the notable absence of a particular 'Congregationalist' issue or stance. Clergymen and lay politicians believed themselves to be the example of "disinterested benevolence", working for the good of the whole rather than their own ecclesiastical interests.⁴⁷ This was not only because they believed that it was their duty to do so, but also because they identified the needs of the Church with those of the community, and vice versa. They did not support or reject measures as 'Congregationalists', but rather in their capacity as leaders with a duty to uphold the religious virtue of the people.

⁴⁷ Sassi, *Republic of Righteousness*, 45.

The Baptists, Quakers and Sandemanians had a far keener sense of their denominational identity. As religious minorities, their responsibility to the community was derived from their membership of the citizenry rather than the standing order. They were thus at liberty actively to champion causes of particular significance to the interests of their church, as representatives of that body. Their willingness to do so in the federal ratification debate highlights the significance of denominational issues in the broader political debate.

One of the smallest denominations to be represented in the Convention was the Sandemanian Church, founded by Scottish missionary Robert Sandeman in 1765. The Sandemanians sought to emulate the practices of the early Christians and believed in the importance of faith, rather than deeds, as a means to salvation. They advocated the separation of church and state, yet demanded the obedience and loyalty of subjects to the civil authorities.⁴⁸ This article of faith, manifested as passive Loyalism in the American Revolution, understandably brought them into conflict with the Patriots who denounced them as Tories and attacked their church in Portsmouth. Their representative in the Ratifying Convention was Nathaniel Barrell, elected by the town of York on the strength of his virulent Antifederalism. He was an early, devout follower of Sandeman, who did not compromise his religious beliefs for the sake of political expediency. To the evident shame of his family, he made no secret of his loyalism during the Revolution and loudly castigated the patriot Congregational clergymen for

⁴⁸ Jean F. Hankins, 'A Different Kind of Loyalist: The Sandemanians of New England during the Revolutionary War,' *New England Quarterly*, 60 (1987), 226-27.

their disobedience to the Gospel, with warnings of Christ's vengeance for their sinfulness.⁴⁹

His "great zeal for the Liberties of the Country" in 1787 convinced electors in York to select him as a delegate to the Ratifying Convention and he loudly declared to those gathered at the town meeting that "he would sooner loose his Arm than put his Assent to the new proposed Constitution".⁵⁰ The connection between his religious beliefs and political Loyalism was evident, but the relationship (if any) between his faith and Antifederalism is far less so. It is possible that the prohibition of a religious test for office holders would have appealed to his convictions about the separation of church and state, but there are no references to support this in the available evidence. His brother Joseph Barrell, as horrified with his sibling's political views in 1787 as he was in 1776, speculated about the religious motivation of the Sandemanian's Antifederalism, but unfortunately there is little in his brother's correspondence to confirm this.⁵¹ In fact, Joseph Barrell's correspondence is filled with more visible religious sentiment than anything authored by his sibling. In the only available account of his initial political convictions, Nathaniel Barrell explained that the proposed Constitution threatened the enslavement of the people because Congress' extensive powers were to be exercised by men with the same "spontaneous inherent thirst for power" that cursed the rest of mankind.⁵²

⁴⁹ 'Joseph Barrell to Nathaniel Barrell, Boston, December 20, 1787' in *DHRC*, Vol. V, 491; Hankins, *Different Kind of Loyalist*, 227.

⁵⁰ 'David Sewall to George Thatcher, York, January 5, 1788' in *DHRC*, Vol. VI, 1072; 'Samuel P. Savage to George Thatcher, Weston, January 11, 1788' in *ibid*, 1073.

⁵¹ 'Joseph Barrell to Nathaniel Barrell, Boston, December 20, 1787' in *ibid.*, 491.

⁵² 'Nathaniel Barrell to George Thatcher, Boston, January 15, 1788' in *ibid.*, 718.

He had been elected as an Antifederalist and though he does not appear to have been specifically instructed to vote against the proposals, there was an understanding and expectation that he would honour the position that determined his election, particularly when he had been so vehemently opposed to the Constitution in the months leading up to the Convention. However, in the closing days of the assembly, he experienced something of a political conversion and voted in favour of the Constitution.⁵³ A local observer noted that Barrell was "much Abused" by the people of York on his return and risked attacks on his person and property by resentful electors angry at his betrayal.⁵⁴

Quakers had a similarly small delegation in the Convention, but their presence was more keenly felt. While contemporaries knew that Nathaniel Barrell was a Sandemanian, he was not identified primarily by his affiliation to this particular sect. By contrast, Quaker delegate James Neal was often labelled as such by commentators.⁵⁵ Outsiders identified Neal as part of a larger group with its own distinctive religious, cultural, and political traditions. References to Quakers outside the Convention were rarely concerned with one individual member, but rather the whole Society.

The political importance of securing the 'Quaker' vote was appreciated by Federalist politicians who were deeply concerned about the strength of Antifederalism in Massachusetts. In the midst of the elections to

⁵³ Barrell did not explain why he changed his mind so dramatically over the Constitution, other than to report that "powerful reason flash'd conviction on my mind, and bore down all before it, in spite of the almost invincible resistance of deep rooted prejudice". In the same letter, he declared that approving the Constitution had been "one of the most meritorious acts of my life". See 'Nathaniel Barrell to George Thatcher, Boston, February 20, 1788' in *DHRC*, Vol. VII, 1589.

⁵⁴ 'Samuel Nasson to George Thatcher, Sanford, 26 February' in *ibid.*, 1708.

⁵⁵ See 'Jeremiah Hill to George Thatcher, Biddeford, January 1-2, 1788' in *DHRC*, Vol. V, 573; 'Jeremy Belknap to Benjamin Rush, Boston, February 12, 1788' in *DHRC*, Vol. VII, 1588; 'Justus Dwight Journal: Thursday 31 January' in *ibid.*, 1818.

the Ratifying Convention, a perturbed Thomas A. Kempis issued a rather patronising warning to “the good people the Quakers”, declaring that Antifederalists were attempting to manipulate them by targeting their sect with partisan material published under the false name ‘Federalism’.⁵⁶ This material highlighted the lack of constitutional protection for conscientious objectors; an important consideration for this pacifist group. Though it is unlikely that the Quakers were fooled by the authorship of the original propaganda piece, they were strongly opposed to the provision that permitted the federal government to raise an army. For many members of the church, this proved to be an insurmountable issue. The Quaker port of town of Sherburne in Nantucket refused to elect representatives to the state Ratifying Convention for this reason. The Quakers’ ability to exercise political power through collective action both infuriated and dismayed Federalists in Massachusetts. Commenting on their mixed success in the state-wide elections, Nathaniel Gorham attacked the Quakers for their “foolish religious whims” which had cost his party five crucial votes, “when they will be needed enough”.⁵⁷

Though his pacifism did not prevent James Neal from representing Kittery in the assembly, his abolitionism precluded his approval of a Constitution that permitted the importation of slaves until 1808. An active participant in the debates on section nine of the Constitution, James Neal announced to the Convention that “his profession...obliged him to bear witness against any thing that should favour the making merchandize of the

⁵⁶ *Massachusetts Centinel* (December 8, 1787).

⁵⁷ ‘Nathaniel Gorham to Henry Knox, Boston, January 6, 1788’ in *DHRC*, Vol. V, 629.

bodies of men".⁵⁸ Although fellow Antifederalists Thomas Lusk and Nason similarly objected to this clause, it was noted that "a certain Quaker preacher" [i.e. Neal] was the most violent and effective opponent of the measure. Despite the assertions of Parsons and clergymen Isaac Backus that the provision was a welcome step towards the final abolition of the trade, Neal remained "inflexible" and declared that the Americans ought to suffer the same treatment as their African slaves.⁵⁹

Federalist commentator Jeremy Belknap was unsettled by the virulence of Neal's opposition to the slave trade clause, but he was more troubled by his position as "a Man of influence in the Circle of Friends at the Eastward", who might "prejudice the minds of a great Part of that fraternity against the Constitution".⁶⁰ Those with an interest in the outcome of the contest were evidently keenly aware of the political significance of sectarian affiliation.

Denominationalism found its fullest expression in the participation of the Baptists. Like the Quakers, the Baptists found themselves targeted by Federalists keen to secure their vote, and Baptist delegates in the Convention similarly championed causes of particular relevance to their church. The main difference between the two groups was political significance: with only around half a dozen congregations compared to the Baptists' sixty-eight, the Quakers remained very much on the religious, cultural and political periphery.⁶¹ Although the Baptists were in no position to challenge the supremacy of the Congregational Church, they were none the less a

⁵⁸ 'Convention Debates, 25 January, P.M.,' *DHRC*, Vol. VI, 1354.

⁵⁹ 'Jeremy Belknap to Benjamin Rush, Boston, February 12, 1788' in *DHRC*, Vol. VII, 1588.

⁶⁰ *Ibid.*

⁶¹ Sassi, *Republic of Righteousness*, 25.

substantial minority keen to have their voice heard and presence felt in the affairs of the state and the nation at large.

In total, around twenty Baptists were elected as delegates to the Convention, the most prominent of whom were Samuel Stillman and Isaac Backus. Stillman was unusual among clergymen in Massachusetts; references to ministers in the Massachusetts press were usually very general and often made in passing, but the "college educated and highly respectable" pastor of the First Baptist Church in Boston was regularly mentioned by name in correspondence.⁶² As "a high Federal man", he was a popular choice amongst advocates of the Constitution for the Boston delegation to the Ratifying Convention. He had supported the patriot cause during the Revolution and enjoyed a friendly relationship both with the Congregational Church and the political elite in Massachusetts.⁶³ His election was a victory for the Federalists, who hoped that his support for the Constitution would encourage other Baptists to follow suit. As Henry Jackson explained in a November letter to Henry Knox, "it is thought policy to choose him one of the Deligates [*sic*] by which means we shall gain that whole Sect in favor of it".⁶⁴ Though he was known for his conciliatory approach to the standing order, Stillman strongly identified with the Baptist community and supported their cause in Massachusetts.⁶⁵ Federalists hoped that he would use his position of influence within the Church to consolidate the denominational vote in the Convention in support of ratification.

⁶² Carla Gardina Pestana, *Quakers and Baptists in Colonial Massachusetts* (Cambridge: Cambridge University Press, 1991), 172.

⁶³ William G. McLoughlin, 'Massive Civil Obedience as a Baptist Tactic in 1773', *American Quarterly*, 21 (1969), 717.

⁶⁴ 'Henry Jackson to Henry Knox, Boston, November 11, 1787' in *DHRC*, Vol. IV, 215.

⁶⁵ Pestana, *Quakers and Baptists*, 175.

The selection of fellow Baptist preacher Isaac Backus as a delegate to the Convention was far removed from the political manoeuvrings behind Stillman's election. The pastor of the First Baptist Church of Middleborough was well known for his firm attachment to the principles of religious liberty; he had played a leading role in championing the rights of conscience during the drafting and ratifying of the 1780 Massachusetts' constitution. Despite this previous involvement in political affairs, he had not originally intended to attend the Ratifying Convention in Boston for the federal Constitution. However, his consideration that "religious liberty is concerned in the affair", coupled with requests for his election from the Middleborough voters convinced Backus that it was his duty to represent his townspeople and denomination in the deliberating assembly.⁶⁶

Samuel Stillman and Isaac Backus were two of seventeen clergymen elected to the Convention. Most of the clergymen came from towns in the central east and south east area of the state, the majority of whom were returned by the county of Suffolk. In all, over half of the thirteen counties who sent delegates to Boston elected clergymen as representatives, but no town further west than Holden in central Worcester elected a minister to serve them. Although clergymen constituted less than one per cent of the delegate total, a relatively insignificant figure compared to the twenty-eight per cent of representatives who were military officers or veterans, they wielded a degree of influence disproportionate to their numbers.

⁶⁶ 'Isaac Backus Diary' in *DHRC*, Vol. VII, 1593.

On the opening day of the Convention, one of the first votes to be passed was that in favour of daily prayers. These were to take place at the beginning of each morning session and all delegates voted to attend. To ensure that denominational rivalry did not become an issue, ministers from both the Congregational and Baptist churches in Boston were invited to officiate. This resolution was in marked contrast to the experience in Pennsylvania, where Benjamin Rush's motion to recommend daily prayers was rejected on the basis that it was too politically contentious. There is no explanation in the records as to why delegates in Massachusetts voted in favour of daily prayers; in fact, the Convention Journal reports the decision as if it were nothing more than a mere formality. However, this in itself is telling. The desire to open proceedings with a period of worship and spiritual dedication echoes the sentiments of previous statements issued by Governor John Hancock and the various town instructions about the sovereignty of God over political matters. It maintained the New England tradition of requesting God's blessing on and guidance over His people, particularly in times of trial. Though it may have been nothing more than a ritual for some delegates, or indeed an opportunity to pour scorn on the "pious ejaculations" of the clergy, others declared their conviction that daily submission to God would ensure a beneficial outcome.⁶⁷

Given the nature and the rhetoric of the ratification debate in Massachusetts before the Convention assembled, it is unsurprising to find that the issue of religious provision quickly became a hotly contested issue in the debating chamber. Charles Turner, the first clergyman to speak in the Convention on a political matter, raised his objections to the secular nature of

⁶⁷ *American Herald* (Powars, January 28, 1788).

the preamble and declared that: "reference should have been made to religion".⁶⁸ Both the Massachusetts Constitution and the Articles of Confederation had, of course, acknowledged God one way or another and explicitly beseeched His direction over the ensuing compact. Turner's conviction that this similarly ought to be the case in the federal Constitution remained a focus for his Antifederalism in the Convention, although he was also troubled by the infrequency of congressional elections. Looking to God's creation for guidance, he argued that as nature renewed itself annually, men ought to do likewise in government.⁶⁹

Other delegates who shared Turner's objections to the secularism of the Constitution focused their attentions on the prohibition of a religious test. The three most vocal opponents of Article VI were Amos Singletary, Colonel William Jones and Major Thomas Lusk. Singletary, noted for his "zeal for religion" by a *New York Post* correspondent, was the owner of a grist and sawmill in Sutton, Worcester County. On January 19, he raised his concerns about the framers' failure to protect the people from irreligious leaders. He declared that the proposed Constitution would force citizens in Massachusetts to renounce all their "privileges" because government officials were not required to have any religious faith. He hoped that Protestants would assume positions of leadership, but feared that "a Papist or an Infidel" might be elected in their place since there were no restrictions on eligibility for office. Conditions were important, he believed, because men were as corrupt and degenerate as they had been at the Fall. Wickedness was as much an issue for Americans in the eighteenth century to contend with as

⁶⁸ 'Convention Journal, January 14, 1788' in *DHRC*, Vol. V, 1184.

⁶⁹ 'Convention Journal, January 15, 1788' in *DHRC*, Vol. V, 1193.

it had been for the ancient Israelites. Without a religious test for officeholders, the people would have no safeguards and no sense of who might be entrusted with the responsibility of governing the nation. Two days later, he again raised the specter of “an atheist, pagan [or] Mahomedan [sic]” assuming federal office in the context of concerns about congressmen being invested with too much power. Because the Constitution conferred representatives with so much authority, it was essential that the right men were elected. However, Singletary was less concerned with defining the qualities of the right men than he was with identifying the wrong men. Protestant Christianity, as he understood it, was synonymous with honesty and goodness; in contrast with Catholicism, Islam and atheism, which were synonymous with wickedness and corruption.

Singletary was not alone in holding these views. Anti-Catholicism was a longstanding feature of political rhetoric in New England and the people of Townshend and Belchertown had already signalled their opposition to the prospect of non-Protestants holding political office in the new nation. Thomas Lusk, a farmer from West Stockbridge in Berkshire county, continued in this vein by warning the delegates that that the admission of a Catholic to office would likely see the establishment of Catholicism in America and a return of the dreaded Inquisition.⁷⁰

Supporters of Article VI had been relatively muted in the months leading up to the Convention, but during the assembly debates, Federalist delegates formulated a comprehensive defense of the controversial provision. It was based on three principles; first, that it was in correspondence with the protection of religious liberty and civil rights; second, that it did not

⁷⁰ ‘Thomas Lusk: Speech in Ratifying Convention, February 4, 1788’ in *DHRC*, Vol. VI, 1421.

prevent unsuitable men from taking office; and third, that it was the responsibility of the people rather than the political system to ensure that only virtuous men were elected to government. Daniel Shute was a Congregational minister known for his opposition to religious tests in both civil and ecclesiastical government. He argued that the exclusion of certain men from office was an unacceptable assault on their civil liberties. Article VI ensured that the rights of every American were protected: "That as all have an equal claim to the blessings of the government under which they live, and which they support, so none should be excluded from them for being of any particular denomination in religion."⁷¹ Isaac Backus was similarly vocal in his support of Article VI, declaring that it was one of the greatest securities for the protection of religious liberty in particular. Adopting similar rhetoric to that used by Antifederalists who feared the Catholic threat, he argued that religious tests had been introduced "as an engine of state-policy...the greatest engine of tyranny in the world".⁷² He believed that the adoption of religious tests for federal officeholders was a significant step in the move towards the establishment of a national church, because the government would be required to support one sect over all others.

Most Federalists believed that a religious test was incompatible with the principles of religious liberty because it sanctioned civil interference in the spiritual sphere.⁷³ The argument that rights of conscience were dependent on the privacy of the relationship between God and the individual was frequently espoused by supporters of Article VI. Both Backus and the Congregationalist minister Phillips Payson were strong advocates of

⁷¹ 'Daniel Shute: Speech in Ratifying Convention, January 31, 1788' in *ibid.*, 1376.

⁷² 'Isaac Backus: Speech in Ratifying Convention, February 4, 1788' in *ibid.*, 1422.

⁷³ See 'Truth', *Massachusetts Centinel* (November 24, 1787).

this defence. Payson argued that it was an important security for the protection of religion and God's sovereignty over the affairs of men: "God alone is God of conscience, and consequently, attempts to erect human tribunals for the consciences of men, are impious encroachments upon the prerogatives of God".⁷⁴ Backus echoed this declaration in the Convention four days later, asserting "religion is ever a matter between God and individuals and therefore no man or men can impose any religious test, without invading the essential prerogatives of our Lord Jesus Christ".⁷⁵ The Antifederalists had argued that Article VI threatened the abolition of religion in America, but the Federal clerics succeeded in gaining support for their position by focusing on the authority of God rather than the rights of believers, thus out-manoeuvring their opponents.

The second argument against religious tests was that they were an ineffective means of screening candidates for positions of leadership. If the Antifederalists were concerned about unscrupulous and immoral men taking office, then it was reasonable to conclude that such men would willingly falsify their religious convictions to pass the test. Those who lacked the personal integrity to govern virtuously would, without qualms, lie under oath to ensure their qualification for election. The only men who would be excluded by such a test, would be those sufficiently honest to admit that their religious affiliation did not meet the prescribed standard. This situation could only disadvantage the American people by depriving them of faithful men in office.⁷⁶

⁷⁴ 'Phillips Payson: Speech in Ratifying Convention, January 31, 1788' in *DHRC*, Vol. VI, 1377.

⁷⁵ 'Isaac Backus: Speech in Ratifying Convention, February 4, 1788' in *ibid.*, 1421.

⁷⁶ 'Daniel Shute: Speech in Ratifying Convention, January 31, 1788' in *ibid.*, 1376.

Finally, Federalists argued that it was the duty of the people to ensure that only men suitable for positions of power would be elected to office, in the same way that it was their responsibility to ensure that Congress did not infringe their liberties. Shute argued that if the people were concerned about their rights, they should only elect men whom they knew to be protectors of these privileges.⁷⁷ Charles Turner, the clergymen who had voiced his objections to the secular preamble and an Antifederalist until amendments to the Constitution had been passed in the Convention, argued that the only effective preventative measure against degeneracy and corruption in government was not the provision of a religious test for office holders, but rather the promotion of Christianity in the wider population.⁷⁸

Another delegate, William Cushing, was also interested in the promotion of Christianity and the role of the Constitution in that process. In an undelivered Convention speech, this impassioned Federalist argued that the Constitution's silence on religious affairs was the best means of ensuring that citizens were free to worship God as was their right and duty. Echoing the rhetoric of the Massachusetts' Declaration of Rights, he argued "the rights of conscience, of thinking and judging in religious matters & of conducting Oneself towards his maker as his own particular reason directs ~~him~~, without Controll [*sic*]" were rights that "such as no man can, consistent with his duty to God and himself, give up or make over to Another, but must, in the nature of things, exercise them himself & be accountable for the right use of them".⁷⁹

⁷⁷ Ibid.

⁷⁸ 'Charles Turner: Speech in Ratifying Convention, February 6, 1788' in *ibid*, 1472.

⁷⁹ 'William Cushing: Undelivered Speech in Ratifying Convention, February 4, 1788' in *ibid.*, 1438.

Cushing also provided the most eloquent exposition of the Federalist position on a bill of rights. First, having admitted that men from all ages had, in the past, attempted to subvert the religious liberties of others, he declared that America “may boast of having gone as far, I suppose further than any other Country upon Earth in putting an end to that absurd practice” because of the provisions offered under each of the state constitutions which enshrined religious freedom and abolished government support for an established church.⁸⁰ These remained inviolable and would not be undermined by the new Federal Constitution.

Second, he pointed to the example of New York, which had no bill of rights, yet still protected the liberties of its citizens. This was because its Constitution, like that of the proposed federal government, limited the executive and legislature to the provisions expressly detailed in each of the articles; all other authority remained with the people. This argument was popular with other Federalists, including Silas Lee, who argued that his liberties were under greater threat with a federal bill of rights than without because in listing the rights of the people, the government secured all others as its own. Thus, “instead of the Constitution’s being the limits or boundary line of Congress, the Bill of Rights would be the sacred barrier, or mark not to be exceeded”.⁸¹

Third, Cushing denied that Congress would have the authority to establish a national church, regardless of whether or not the federal Constitution contained a bill of rights to the contrary. Describing such a move as a “downright usurpation”, he declared “we should have as good a

⁸⁰ See also ‘Truth’, *Massachusetts Centinel* (November 24, 1787).

⁸¹ ‘Silas Lee to George Thatcher, Biddeford, January 23, 1788’ in *DHRC*, Vol. V, 781.

right to refuse without a bill of rights as with one".⁸² His reasoning on this point can be explained with reference to his conception of the special place America had earned in world history and the extent to which the virtue of a people determined the nature of their government.

When the vote was taken at the close of the Convention, all of the clergymen who had actively participated in the debates voted to ratify the Federal Constitution. They had spoken on a number of different points, from the election of virtuous administrators and the security of amendments to slavery, and, of course, the prohibition of religious tests for office holders. The clergy were often well aware of their ambiguous profile and the contempt in which some people held them. Before Thomas Thacher publicly gave his assent to the Constitution, he asked to be pardoned in order to offer his sentiments with freedom. Acknowledging the "prejudices that subsist against the profession to which I belong", he gave his comments, not as a man of the cloth, but as one of the elected representative of Dedham and Dover.⁸³

Charles Turner's eventual decision to ratify was instrumental in encouraging others to do likewise, particularly after he had outlined his reasons for this late acquiescence. Like Benjamin Franklin at the closing vote of the Constitutional Convention in Philadelphia, he admitted that it was impossible for fallible men to draft a perfect form of government, but he

⁸² 'William Cushing: Undelivered Speech in Ratifying Convention, February 4, 1788' in *DHRC*, Vol. VI, 1432.

⁸³ 'Convention Journal, February 4, 1788' in *ibid.*, 1416.

argued that the proposals presented to the states offered the best possible federal Constitution. At the very least, they were a definite improvement on the Articles of Confederation, which he believed were in urgent need to revision, "or we will be an undone people". However, this endorsement was not granted without reservation. Turner insisted that "without the prevalence of Christian piety and morals, the best republican Constitution can never save us from slavery and ruin", and to this end, he advocated the establishment of an educational institution to train American children in republican Christian virtue at Congress's earliest opportunity. Along with John Hancock and Samuel Adams, Turner's assent reassured a number of sceptics in the Convention and played an important role in securing the Constitution's ratification in Massachusetts.

Like Charles Turner, Thomas Thacher admitted that the proposals were far from perfect, but he was reassured by the process of amendment, whereby oppressive measures could be corrected. In explaining the reasons for his support of the Constitution, Thacher told the assembled delegates that he was "conscious of no motive which guides me in this great and solemn question, but what I could justify to my own heart, both on the bed of death, and before the tribunal of Omnipotence". More specifically, it was his sincere belief that the proposed Constitution would contribute to the "glory, freedom and felicity of my country".⁸⁴ It is fair to argue that Backus supported the Constitution because he believed that it secured religious liberty. Though he also praised the proposals for limiting the slave trade and abolishing hereditary titles, he had written privately before the Convention that he had agreed to attend as a delegate only because religious liberty was

⁸⁴ 'Convention Journal, February 4, 1788' in *ibid.*, 1421.

at stake. Daniel Shute and Phillips Payson similarly spoke in support of the Constitution's prohibition of a religious test, but the available evidence does not allow any conclusive answers to be drawn on questions of their motivation. It may be telling that they chose to speak out on this one point, or they may simply have felt a duty as clergymen to offer some leadership and guidance in this extremely contentious religious issue. Unfortunately, their speeches do not offer any further clarification.

Contrary to the expectations of the Federalists, the election of Samuel Stillman did not secure the Baptist vote. His Convention address in praise of the Constitution, in which he omitted any reference to religious liberty or the scriptures, failed to rouse his sceptical Baptist colleagues.⁸⁵ In a final attempt to secure the Baptist vote, Pennsylvanian Baptist James Manning, a vocal advocate of the Constitution in his own state, arrived in Boston to lend his support to the Federalist cause. William McLoughlin suggests that this may have been at the invitation of Federalists in Massachusetts who were increasingly concerned about the strength of Antifederalism among many of the Baptist delegates.⁸⁶ On October 31, 1787, Backus had received a letter from Manning in which he outlined his reasons for endorsing the proposals, and requested that the Middleborough pastor circulate the minutes of the Philadelphia Association around the congregations in Massachusetts so that "our friends in New England may see the remarkable Unanimity of our western Brethren in the Adoption of it".⁸⁷ He was encouraged that the Constitution did not provide the means of establishing a national church and

⁸⁵ William G. McLoughlin, *Diary of Issac Backus* (Providence: Brown University Press, 1979), 1220-21.

⁸⁶ *Ibid.*, 1218.

⁸⁷ *Ibid.*, 1208.

hoped that Baptists in Massachusetts would share his enthusiasm.⁸⁸ However, in the final Convention vote, around two-thirds of his denomination opposed ratification.⁸⁹

The reasons for their objections, unfortunately, are unclear. One of the Antifederalists, Noah Alden, was a veteran campaigner for religious liberty and it is therefore possible that his opposition to the proposals stemmed from the absence of a clause protecting freedom of conscience. There is no available evidence for the other opponents, who included Pelatiah Tingley from Waterborough in York and Valentine Rathburn from Pittsfield in Berkshire. In a potentially revealing diary entry, Isaac Backus described the outcome of the vote in the Convention and explained that "Elder Stillman, and I, with twelve congregational ministers, voted for it; though doubtless with very different views".⁹⁰ Like the Boston Federalists and James Manning, it appears that Isaac Backus expected the Baptist delegates to vote as one. That they did not, indicates perhaps that the Baptists were beginning to feel more secure in their position within Massachusetts society and, more important, that denomination was by no means a reliable political determinant.

The significance of denominationalism to this ratification debate is initially most evident in the support, or condemnation, of certain political issues by religious groups. The "Religious Scruples" of the Quakers prevented some from attending the Convention altogether because of the clause that permitted the government to raise any army, and precluded another from supporting the Constitution because it legislated for the

⁸⁸ Ibid.

⁸⁹ 'Isaac Backus Diary' in *DHRC*, Vol. VII, 1594.

⁹⁰ 'Isaac Backus Diary' in *ibid.*, 1594.

continuation of the slave trade. Similarly, religious liberty and religious tests for officeholders were issues of particular relevance and importance for Baptists in the state. Yet, a study of the political significance of denominationalism in this ratification debate cannot be limited to a discussion of how specific issues became a rallying point for denominations, or how different religious groups instructed their members how to vote. It must also be looked at from outwith the religious communities, to include an analysis of how political parties used denominationalism to further their own ends. Attempts by Federalists to manipulate the votes of the Quakers and Baptists in Massachusetts demonstrate the real political significance of denominationalism to this debate. Though they were not successful in their attempts, and though the Baptists did not vote as a denomination, the belief that the voting would be determined by denominational affiliation highlights the contemporary perception of denominational influence and identity in the political sphere. As we seek to uncover the battlelines of debate, both real and perceived, the significance of religious identity must be emphasised alongside more established categories of socio-economic status and geographic location.

“The New Litany”: Religion and the Ratification in Virginia

Nineteen months after the passage of the Bill for Establishing Religious Freedom, the new Federal Constitution was presented to the states for ratification. On October 31, 1787, James McClurg wrote to James Madison to thank him for sending him a copy of the new Federal Constitution. It has, he declared “ever since been the principal topic of political conversation in every company”.¹ He was not the only one in Richmond to be impressed by the level of interest generated by the proposals. “Every corner of the city resounds with politicks – The new Constitution is the chief subject of their debates”, announced James Breckenridge in a letter to his brother.² By early January, the intensive public dissection and wrangling over the document in Virginia’s capital had become distinctly more muted, “not from a want of zeal in either party, but from downright weariness”.³ In the remainder of the state, however, the new Federal Constitution remained a burning topic for debate. Campaigning on both sides grew increasingly more intense as elections for delegates to the Ratifying Convention drew near in spring 1788. Although the Constitution had met with disapproval and defiance in other states before Virginia finally formally considered it, the outcome of the decision in the Old Dominion was of special public interest. As the largest and most populous state in the Confederation, the stability and feasibility of a strong federal union depended on the support of Virginia, particularly

¹ ‘James McClurg to James Madison, Richmond, October 31, 1787’ in *Documentary History of the Ratification of the Constitution* (hereafter *DHRC*), Vol. VIII, eds. John P. Kaminski and Gaspare J. Saladino (Madison: State Historical Society of Wisconsin, 1988), 137.

² ‘James Breckenridge to John Breckenridge, Richmond, October 31, 1787’ in *DHRC*, Vol. VIII, 136.

³ ‘Edmund Randolph to James Madison, Richmond, 3 January 1788’ in *ibid.*, 284.

given its illustrious roll call of patriot leaders including George Washington, who was considered the inevitable choice for first President of the United States.

In Virginia, as elsewhere, there was strong opposition to the proposals. One of the issues both inside and outside the Ratifying Convention was the protection of religious liberty in the new federal union and the sanctity of Virginia's recent legislation on this matter. Groups who had so recently found their freedom under Jefferson's enlightened Statute feared the prospect of another attack on their liberties in the new frame of government. Impassioned debates about the role of religion in government and public life, the limits of religious freedom and the necessity of legislation in this area, were once again reopened. The prospect of a Constitution that would firmly unite the American states seemed to threaten the security of Virginia's religious settlement. In considering the place and protection of religion in the Federal Constitution, Virginians revisited their debate over the relationship between church and state as they deliberated the relationship between state and federal government and the bounds of federal power.

1786 did not mark the end of the campaign for religious liberty in Virginia. Both evangelicals and rationalists feared a threat to religious liberty in the proposals from Philadelphia and Antifederalists played on these fears to increase support for their cause. In this way, church-state issues and concerns about the protection of religious liberty continued to occupy the minds of Virginians and thereby play an important role in the politics of the state beyond the adoption of the Bill for Establishing Religious Freedom.

As in other states, the debate over religious provision and the protection of religious liberty centred on two interrelated points. The first was the prohibition of a religious test for officeholders in Article VI of the Constitution. This had been a particularly controversial clause in Massachusetts, where a religious test was required for all prospective officeholders to ensure that only Protestants could obtain a seat in government. In Virginia, where no such religious test for officeholders had existed since 1776, public opposition to this provision was virtually nonexistent. With the exception of one group who publicised their objections in the press, support for a religious test was generally restricted to private correspondence. Shortly after the Constitutional Convention had disbanded, Edmund Pendleton wrote to James Madison to share his observations and concerns about the new government. Aware that Madison did not share his views on the benefits of a religious test and would “probably laugh” at his objections to Article VI, he declared that his criticism of the provision was “serious” and asked why the Constitution required public officials to take an oath without passing any kind of religious test. Employing language that echoed that of supporters for a religious establishment in Virginia, he acknowledged that previous tests had been “narrow & illiberal”, but maintained that a belief in “a Future State of Rewards and Punishments” was a necessary corollary to observing an oath. In Pendleton’s mind, if men were driven by neither hope nor fear, they would have no cause or compulsion to satisfy their promises and this would inevitably have a detrimental impact

on the stability of government. He therefore argued that a religious test should be drafted to accompany the oath of officeholders or the oath should be abolished entirely since it would be ineffective on its own.⁴

The following month, Thomas Wilson expressed his concern about the deistical nature of the Constitution in a letter to Archibald Stuart, declaring that the framers “had no thought of God in all their consultations”. As evidence of their irreligious attitude, Wilson pointed to the words of the presidential oath. He believed that the oath should mention God by name, but instead “it appears as if we are hereafter to depend upon the honor of infidels in affairs the most interesting”.⁵ Singletary and Lusk stood at the edges of mainstream political debate with their attack on non-Protestants during the ratification debate in Massachusetts, but they were still part of a larger community who believed that the Constitution should explicitly promote their brand of the Christian faith. Wilson stood virtually alone in Virginia: with the exception of the ‘Society of Western Gentlemen’ citizens in this state were more concerned with religious liberty than religious provision.

The ‘Society of Western Gentleman’ published their revisions of the Constitution in the *Virginia Independent Chronicle* on April 20, 1788. In place of “no other religious Test shall ever be required as a Qualification to any Office or public Trust under the United States”, they proposed “no other religious Test shall ever be required than a belief in the one only true God,

⁴ ‘Edmund Pendleton to James Madison, Edmundsbury, October 8, 1787’ in *DHRC*, Vol. X, 1774.

⁵ ‘Thomas Wilson to Archibald Stuart, November 4, 1787’ in *DHRC*, Vol. VIII, 145.

who is the rewarder of the good, and the punishment of the evil".⁶ No replies to their revisions were subsequently printed in this or any other newspaper in the state: the issue simply did not attract the interest or attention of Virginians in the way it had other Americans. Given the absence of a religious test for officeholders in the state since 1776, it is perhaps easy to understand why this particular clause was virtually ignored by Antifederalists or Federalists seeking amendments. More puzzling is the virtual absence of any discussion in favour of the Article. Federalists in Massachusetts pointed to the provision as proof that religious liberty was a guiding principle of the framers and therefore protected by their plan of government. Baptist Isaac Backus notably explained his support for the Constitution in these terms.⁷ Given the sensitivity of Virginians to the issue of religious freedom, it seems slightly odd that Federalists in the state did not attempt to gain more political capital from this issue.

The second debate over religion centred on the issue of religious liberty and its protection in the Constitution. The framers had not drafted a Bill of Rights to accompany their proposal and this was highly controversial in Virginia, as it has been elsewhere. It did not take long for critics of the Constitution to make their objections known. In a letter to Edmund Randolph, dated October 16, 1787, Richard Henry Lee outlined his concerns about the absence of a Bill of Rights which would secure "that residuum of human rights, which is not intended to be given up to society, and which

⁶ 'Society of Western Gentlemen Revise the Constitution, Virginia Independent Chronicle, April, 20, 1788' in *DHRC*, Vol. IX, 771.

⁷ 'Isaac Backus: Speech in the Convention, February 4, 1788' in *DHRC*, Vol. VI, 1422.

indeed, is not intended to be given for any social purpose".⁸ The first of these rights was the right of conscience. In his later list of proposed amendments to the Constitution, he once again argued that a Bill of Rights should be included with the new frame of government. These should "precisely stat[e] the principles upon which this social compact is founded", including the declaration "that the rights of conscience in matters of religion ought not be violated". Richard Henry Lee was not the only prominent Virginian to object to the omission of a Bill of Rights. Thomas Jefferson gave James Madison his thoughts on the new government in a letter from Paris, dated December 20, 1787. After praising the system of checks and balances, he lamented the omission of a Bill of Rights, which threatened the protection of religious freedom. A declaration of rights was, he wrote in a later letter to Alexander Donald, "the fetters against doing evil which no honest government should decline".⁹

Advocates of a Bill of Rights included members of the Baptist community. In the Federal Constitution, they saw a threat to their newfound liberties in Virginia. The passing of the Bill for Establishing Religious Freedom had signalled an end point to a very long and arduous struggle for the Baptists in the Old Dominion. The persecution they had faced from the civil authorities and the abuse they had suffered at the hands of public opponents has been well documented.¹⁰ Most of the longest serving preachers in 1788 may have been imprisoned, beaten or threatened with

⁸ 'Richard Henry Lee to Edmund Randolph, New York, October 16, 1781' in *DHRC*, Vol. VIII, 62

⁹ 'Thomas Jefferson to Alexander Donald, Paris, February 7, 1788' in *DHRC*, Vol. III, 354.

¹⁰ Lewis Peyton Little, *Imprisoned Preachers and Religious Liberty in Virginia* (Lynchburg: J.P. Bell Co, 1938); Robert B. Semple, *A History of the Rise and Progress of the Baptists in Virginia* (Richmond: Pitt and Dickinson, 1894); Garnett Ryland, *The Baptists of Virginia, 1699-1926* (Richmond: Baptist Board of Missions and Education, 1955).

violence at some time during their ministerial service. The memory of these experiences alone would be reason enough to be concerned about the danger of any sort of regressive legislation in this area. However, the Baptists' support for separation of church and state at every level of government was primarily religious. They believed that men were answerable only to God in questions of conscience and therefore it was spiritually unlawful for the government of the state to compel citizens to support any one particular religious organisation.

Joseph Spencer warned James Madison, in New York at the time, that the Baptists were deeply concerned by the proposals and were therefore likely to support Antifederalist candidates in the election to the Ratifying Convention. "The preachers of that Society are much alarm'd fearing religious liberty is not sufficiently secur'd", he wrote. In Orange County, Colonel Thomas Barber was "as great an Enemy to [the Constitution] as he posably [*sic*] can be" and he had succeeded in gaining a great deal of Baptist support for his strident opposition to the new frame of government. At this time, Virginia was experiencing a period of religious revivalism and Baptist numbers were growing at an impressive rate. Their political leverage was therefore also steadily increasing and Spencer warned Madison "that body of people has become very formidable in point of Elections".¹¹ He therefore encouraged Madison to drop by John Leland on his journey home to Montpelier to assuage his fears of religious tyranny under the new Constitution.

¹¹ 'Joseph Spencer to James Madison, Orange County, February 28, 1788' in *DHRC*, Vol. VIII, 424

John Leland was a renowned Baptist preacher from Massachusetts and had been a leading advocate for the separation of church and state in Virginia since his arrival there in 1776. Madison was familiar both with his principles and his influence within the Baptist community. In his list of objections to the Constitution, Leland declared that: "what is dearest of all – religious liberty – is not sufficiently secured".¹² Though his anguish was tempered slightly by the prohibition of a religious test for officeholders, he believed that it would be possible, even likely, that Congress and the President would favour one religious denomination over another and all churches and associations would thereby suffer by being forced to offer financial support to the privileged Church. Since the Constitution was insufficiently capable of defending such corruption, the only protection against oppression would be the virtue of the people. Like other political writers of the period, he was not entirely confident that Americans would be able to maintain their republican principles and therefore was very concerned that religious liberty faced great danger in the proposed Constitution. The supposed meeting between Leland and Madison, just before the elections in Orange County where the Baptist secured a promise from the politician that religious liberty would be preserved by the new federal government, has become part of Baptist legend in Virginia.¹³ It may well have taken place, since Barber was not elected to the Convention, but no documentary evidence exists to support the claim.

One month after Spencer's letter and Leland's objections were sent to Madison, the Baptist General Committee met to discuss the Federal

¹² Ibid., 426.

¹³ Ibid.

Constitution and their official response to the proposals. The General Committee represented four Baptist associations across Virginia and its purpose was to deal with matters of general concern to Baptists in the state.¹⁴ In March 1788, during elections for delegates to the Ratifying Convention, the following question was put before the Baptist representatives: "Whether the new Federal Constitution, which had now lately made its appearance in public, made sufficient provision for the secure enjoyment of religious liberty?" Everyone in attendance agreed that it did not.¹⁵ This unified position can be contrasted with the situation in Massachusetts, where Baptist leaders had been firmly divided over the extent to which the proposals protected religious liberty. Isaac Backus strongly supported the Constitution because it prohibited a religious test for officeholders, while his colleagues in the district of Maine, including Noah Alden who had baptised John Leland many years previously, voted against ratification in the Convention because there was no written confirmation within the document that religious liberty would be protected by the new federal government.

Group affiliation and mobilisation was a critical element during the ratification contest; contemporaries were careful to acknowledge the importance of certain groups in determining the issues at stake and the success of candidates at election. Although the Baptists were arguably the most active religious group during the contest, the Quakers also found

¹⁴ Ryland, *Baptists of Virginia*, 122.

¹⁵ Semple, *Rise and Progress of the Baptists in Virginia*, 102.

themselves embroiled in the political dispute. While politicians from both sides targeted these groups for support, they were also vilified in the press. Their role in the contest demonstrates the political importance of religious forces and interests in this debate while providing a useful insight into the status of these formerly dissenting societies in the period immediately following the separation of church and state in Virginia. Both the involvement of these sects as special interest groups and the public unease with certain aspects of the ratification debate, namely the prevalence of passionate or evangelical-style rhetoric in the various public debates, demonstrates the extent to which these groups remained outwith the social and cultural mainstream after 1786.

One such example of political targeting is an item that appeared in the *Virginia Independent Chronicle* on February 13, 1788, entitled "A hint to the people called QUAKERS in Virginia".¹⁶ In Pennsylvania, Antifederalists had attempted to gain the support of Quakers by declaring that liberty of conscience was not protected by the new Constitution and that they would therefore be subject to bearing arms in support of the United States.¹⁷ In Massachusetts, Quakers in Nantucket refused to participate in the election of delegates to the state Ratifying Convention in protest at the legislative protection offered to the slave trade. This Virginian polemicist appealed to both these points of principle in his "hint". Patronisingly inquiring as to whether or not members of the Society of Friends had "considered the plan of the new Constitution" in the five months since it had been published, he

¹⁶ *Virginia Independent Chronicle* (February 13, 1788).

¹⁷ Owen S. Ireland, *Religion, Ethnicity and Politics: Ratifying the Constitution in Pennsylvania* (University Park, Penn.: Pennsylvania State University Press, 1995), 43-7, 52, 86.

then confidently informed the group that if they had, "I think you certainly disapprove it", not least because it permitted the continued importation of "the poor Africans", thereby condoning the institution of slavery in the new nation.

The Society of Friends' relationship with slavery in the American colonies had a complex history. They had been theologically and ideologically opposed to the principle and practice of slavery since the 1690s, yet from early to mid-eighteenth century a number of Quaker merchants had been involved in the slave trade and many members of the Society owned slaves.¹⁸ After the Seven Years War, leaders in Philadelphia and other Meetings began publicly to condemn the institution and Quakers who involved themselves in the sale or enslavement of Africans in America. Believing that the war had been God's punishment for Americans' sinful and licentious behaviour, a number of leading Quakers introduced various reforms in an attempt to purify the lives and lifestyle of Friends.¹⁹ A conviction that slaveholding encouraged idleness and created unnecessary wealth, together with a belief in the spiritual equality and brotherhood of mankind, derived from the tenet that the 'inner light' dwelt within all men, encouraged reformers to reaffirm the Society's opposition to slavery and strengthen efforts to purge its connection to the institution. In 1776, Quakers at Philadelphia's Monthly Meeting resolved to disown any Friend who owned, bought or sold a slave and Quakers in northern Virginia instituted a

¹⁸ Gary B. Nash, 'Slaves and Slaveholders in Colonial Philadelphia', *William and Mary Quarterly*, 30 (1973), 252-254; A. Glenn Crothers, 'Quaker Merchants and Slavery in Early National Alexandria, Virginia: The Ordeal of William Hartshorne', *Journal of the Early Republic*, 25 (2005), 52. The Quaker leadership in Pennsylvania had played an instrumental role in co-ordinating the Atlantic slave trade in the early eighteenth century and Quaker merchants in Philadelphia had been both publicly and actively opposed to the antislavery activities of other Society members before the 1750s.

¹⁹ Crothers, 'Quaker Merchants,' 54.

similar policy that same year. Despite the high proportion of slaves in this part of the state, few members of the Society were actively involved in slavery, but Quakers in places like Fairfax and Alexandria were not as quick to disown members who continued to hold slaves as their counterparts in other parts of the country. Aware of the ever-growing entrenchment of slavery in the social and economic life of the region, together with the limitations of Virginia's legal provision for manumitting slaves, Quakers in northern Virginia generally took a more sympathetic and conciliatory approach to members who were reluctant to free their slaves. At the same time, Quakers from across Virginia petitioned the legislature to reform the law that made it illegal for masters to free their slaves except under certain circumstances and even then only with a licence; a campaign that bore fruit in 1782 when restrictions were lifted for slaves manumitted from that date.²⁰ The relaxation of the law made it easier for Quakers in Virginia to conform to the dictates of their local Meeting and manumit their slaves, but a number of Friends continued to hold bondsmen and women beyond this date. Quakers in Virginia were, at least in principle, if not always in practice, opposed to slavery and polemicists like the author of the "hint" latched onto the issue of the slave trade as a means of appealing to the public concerns of the Society and thereby securing its political support.

After highlighting the dangers of the Constitution in protecting the slave trade, the author adopted the same technique as Pennsylvanian Antifederalists of encouraging acquiescence through scaremongering by threatening the Quakers with compulsory military service or exorbitant penalties if they refused to take up arms in any war in which the United

²⁰ Ibid, 55-58.

States became involved. Virginia offered them exemption from fighting in the militia if they produced a certificate confirming their membership of the Society, or if a fine was paid on their behalf. These "favors", warned the writer, could not be guaranteed if the new Federal Constitution was ratified, for "our Assembly will not have the power of interfering in such matters, indeed...there will be but a mere shadow of power left in the hands of our legislature". All in all, he concluded, the new Constitution offered these "peaceable people" nothing but great impositions and cruel sufferings, more so than other people or groups in the state of Virginia.

The response to this advice was swift and indignant. Within a month, a reply from 'One of the People called Quakers in the State of Virginia' had been published in the same newspaper.²¹ Though many of Virginia's Quakers supported the Constitution there is, unfortunately, no way of telling whether or not this piece was authored by a member of the Society of Friends or an opportunistic Federalist writer desperate to regain the upper hand in the contest for political support.²² No further essays of this nature were published in the *Virginia Independent Chronicle* or any other newspaper in the State. In the unlikely event that Virginia Quakers had decided to withdraw entirely from the debate without contesting political pronouncements made in their name, this article may be viewed as a useful insight into the Quaker position on the Constitution and the nature of the ratification debate in Virginia. The author began by taking issue with the argument made by 'A Virginian' regarding the implications of the Constitutional protection offered to the slave trade. While accepting that the new frame of government

²¹ 'One of the People Called Quakers in Virginia', *Virginia Independent Chronicle* (March 12, 1788).

²² Crothers, 'Quaker Merchants', 49.

protected the ongoing importation of Africans to the North American continent, he disputed the charge that this necessarily meant the arrival of these enslaved people in Virginia. The legislature had, in fact, prohibited the importation of slaves to the state in 1778 and the author of this essay believed that there was no reason to suggest that the legislature would revoke this decision, regardless of the provisions in the Federal Constitution. Far from encouraging the institution of slavery in the new nation, the author declared that the reluctance with which the clause was offered to the Carolinas and Georgia, in exchange for their support in the Constitutional Convention, demonstrated the political support amongst American political leaders for abolition. This optimism was also directed towards the protection offered to liberty of conscience under the new frame of Federal government. In an argument that been offered before and would be put forth many times again by Federalist politicians, the author argued that the privileges secured to Virginian citizens by their state legislature would not be infringed upon by the new Congress. Suggestions to the contrary were a vain attempt to appeal to the fears, the passions and the irrationality of the voting public who should instead be driven by rational considerations when considering the proposals.

Political rhetoric directed towards the unthinking, ignorant prejudices of men was a cause of real concern for many participants in the debate. Though the two parties were almost evenly divided in terms of socio-economic standing, political experience and ability, the charge of appealing to passionate ignorance over reason was generally levelled against the Antifederalists. George Washington spoke for many Federalists when he

criticised the direction the debate was taking in Virginia from the earliest months of the contest:

The adversaries to a measure are generally, if not always, more active & violent than the advocates; and frequently employ means which the others do not...I have hardly seen any [publication] that is not addressed to the passions of the people; and obviously calculated to rouse their fears.²³

The deployment of emotive or spirited rhetoric as a tactic of persuasion was a focus for criticism in the spheres of both politics and religion in Virginia. Though the Episcopal Church had lost its privileged position as the established church in the state, it retained a significant degree of cultural influence. The qualities it engendered continued to dictate the socially acceptable forms of oratory and behaviour. The Baptists, though growing in number and political influence, remained cultural outsiders. Like the Antifederalists, they were denounced for appealing to the passions and ignorance of men, though this was as much an attack on their own social standing as their missionary efforts since their fellowship at this time consisted largely of illiterate or uneducated men and women and slaves. Like the Quakers, the Baptists found themselves drawn into the ratification debate by concerns that their religious liberties might be threatened by the new Federal Constitution.

Observers of the political contest noted the strength of Baptist Anti-Federalism in Virginia. "Much talk amongst the people about the Constitution, the Baptists and ignorant part of them against it", wrote Francis Taylor in his diary.²⁴ The response of some Baptists to the threats posed by

²³ 'George Washington to David Stuart, Mount Vernon, 30 November 1787' in *DHRC*, Vol. VIII, 193.

²⁴ *DHRC*, Vol. VIII, 426

the new Constitution was to stand for election to the Ratifying Convention or to support candidates who were explicitly Antifederalist. In Albemarle County, one ministerial candidate thought to be William Woods, was savaged in the *Virginia Independent Chronicle*.²⁵ He was criticised for his illiteracy and lack of education, which the author believed rendered him incapable of fulfilling the duties of his office as a delegate.

The involvement of the Quakers and the Baptists, in particular, in this ratification debate demonstrated that the question of church-state relations and religious liberty had not been conclusively settled by the Bill for Establishing Religious Freedom. Although they were no longer dissenting religious groups, they remained social and cultural outsiders. Their religious concerns and behaviour differentiated them from the rest of the population. A. Glenn Crothers argues that Quakers in northern Virginia “purposefully created an exclusive and ‘clannish’ community”.²⁶ Their religious doctrine and modes of worship, together with their insular lifestyle and distinctively plain style of dress, set them apart from other Virginians; a position that was only exacerbated by their public opposition to slavery.

The growing strength of Baptist associations across Virginia and their willingness to engage in political campaigns of relevance to their concerns gave them a significant degree of leverage and power. Yet, they often remained the focus of scorn or ridicule, because of their membership and their distinctive religious culture. Dissenting evangelical groups like the Baptists were mocked and disdained for their enthusiastic, passionate rhetoric. The virulent opposition to this style of oratory and writing in the

²⁵ ‘A Planter,’ *Virginia Independent Chronicle* (February 13, 1788).

²⁶ Crothers, ‘Quaker Merchants’, 51.

ratification debate demonstrates how far the Baptists had to progress in order to become an accepted part of the culture and community in Virginia.

The political rhetoric of the ratification contest in Virginia was markedly different from that in Massachusetts and further served to underline the lingering cultural authority of Episcopalianism. In Massachusetts, pamphlets, essays and personal correspondence were littered with Biblical references and divine invocations; by contrast, the political discussion in Virginia was generally more secular. Like their counterparts in New England, Virginians debated the role of religion in the new nation and its provision in the proposed Constitution, but their language was more often nonreligious. Examples of religious rhetoric are notable not because they were representative, but because they were relatively unusual. Thomas Wilson's heartfelt concern about the secular nature of the Constitution was articulated in religious language, almost as a supplication to God. Fearful of the consequences of "wicked" men assuming office, he entreated the "Lord of heaven...that thou in thy infinite goodness wouldst ward off the impending stroke".²⁷ Shortly before delegates to the Ratifying Convention took their seats, Richard Henry Lee wrote to Edmund Pendleton and declared that he prayed "that God may bless the Convention with wisdom, maturity of Counsel, and constant care of the public liberty; and that he may have you in his holy keeping".²⁸ A less expressive writer in the *Virginia Independent*

²⁷ 'Thomas Wilson to Archibald Stuart, November 4, 1787' in *DHRC*, Vol. VIII, 145.

²⁸ 'Richard Henry Lee to Edmund Pendleton, Chantilly, May 26, 1788' in *DHRC*, Vol. IX, 881.

Chronicle hoped "in God" that the Antifederalists would not be successful and prayed that the "power who has led us thus far into maturity [will] avert such an evil".²⁹ A political opponent writing in the *Virginia Journal* suggested that Constitutional reform was ill-timed and might provoke a civil war; a prospect which prompted a necessary appeal to a higher authority: "May Heaven avert the dreadful catastrophe!" he wrote. "From despotism and tyranny good Lord deliver us".³⁰ 'An Impartial Examiner', writing in the *Virginia Independent Chronicle*, issued a similarly dramatic plea to God to maintain freedom and liberty in America if the proposed Constitution became the new frame of federal government. "Shine in upon us, and illumine all our counsels", he begged. "Suffer thy bright ministers of grace to come down and direct us; - and hovering for a while on the wings of affection, breathe into our souls true sentiments of wisdom".³¹

As in Massachusetts, some writers made reference to Providence and the role of God's authority in determining or guiding political developments, but examples of this kind of rhetoric, as with divine invocations, were far less prevalent. 'A True Friend' reminded his fellow citizens that they had a duty of care to protect and guard "that glorious and darling deposit, with which Providence has blessed us", while 'Tamory' argued that the people should consider the issue of ratification "with coolness and moderation" in order to protect the liberty "Divine Providence had given to mankind".³² In a letter to William Fleming, William Russell expressed his hopes that the "hand of

²⁹ 'Virginia Independent Chronicle, October 31, 1787' in *DHRC*, Vol. VIII, 140.

³⁰ 'Virginia Journal, December 6, 1787' in *ibid.*, 211.

³¹ 'Virginia Independent Chronicle, March 5, 1787' in *DHRC*, Vol. VIII, 466

³² 'A True Friend, Richmond, December 6, 1787' in *ibid.*, 218; 'Virginia Independent Chronicle, January 9, 1788' in *ibid.*, 286-87.

Providence" would guide the minds of men responsible for ratifying the Constitution so that they would make "wholesome amendments".³³

When Virginian writers appropriated Biblical references, they often did so for literary effect rather than religious reasons, in the same way that other writers referenced Heaven or peppered their arguments with divine exclamations.³⁴ Writers in Massachusetts also used religious allegories for literary effect, but the overall rhetorical context was more overtly religious. The rhetoric adopted by 'Cat Uticensis' in the *Virginia Independent Chronicle* was certainly more deistic than pious. He called on Virginians to "humble" themselves "before the fountain of ALL WISDOM" and warned his readers that the proposed federal government threatened to "swallow up the rest" like Aaron's serpent, before declaring that "the blaze of LIBERTY" would burn brighter on thirteen separate altars than it would on one collective pedestal.³⁵ William Grayson compared the Constitution to the "legs of Nebuchadnezzar's image" because "it seems to have been formed by jumbling or compressing a number of ideas together", while Archibald Stuart expressed his hope that the proposed Constitution would be the "Rock of Salvation" on which Americans could rest if the problems with state governments persisted. This was a sentiment shared by Alexander Donald in a letter to Thomas Jefferson in which he opined that the adoption

³³ 'William Russell to William Fleming, Aspenville, January 25, 1788' in *DHRC*, Vol. VII, 324.

³⁴ See 'Americanus, Virginia Independent Chronicle, December 5, 1787' in *DHRC*, Vol. VIII, 204; 'William Nelson, Jr. to William Short, Williamsburg, March 9, 1788' in *ibid.*, 476; 'Cassius, Virginia Independent Chronicle, April 2, 1788' in *DHRC*, Vol. IX, 645; 'Cassius, Virginia Independent Chronicle, April 23, 1788' in *ibid.*, 753; 'Edward Carrington to Thomas Jefferson, New York, May 14, 1788' in *ibid.*, 796.

³⁵ 'Cat Uticensis, Virginia Independent Chronicle, October 17, 1787' in *DHRC*, Vol. VIII, 72-75.

of the Constitution would be the "salvation of America".³⁶ In letters to James Madison and David Stuart, George Nicholas also expressed his conviction that the "salvation of America" was dependent on the adoption of the proposed Constitution.³⁷

The religiosity, or even religious nature, of references to the Constitution as the "salvation" of America is, of course, debatable. The word has a secular definition, but in the context of Christianity's pervasive cultural influence in eighteenth-century America, both authors and readers would have understood its religious overtones. Not content with implicit associations, some political writers drew a direct correlation between the Constitution and Christianity. Although Antifederalists were just as likely to make divine invocations or use Biblical references in their political literature, the most overt, and creative, religious rhetoric came from the Federalists in Virginia.

One of the most interesting and culturally revealing examples of political writing within this 'genre' first appeared in the *Virginia Herald* and was subsequently reprinted in the *Winchester Virginia Gazette*, the *Virginia Independent Chronicle* and the *Virginia Gazette and Independent Chronicle* in the spring of 1788. Entitled the 'The New Litany', it was an imaginative piece of Federalist literature written in a style that reflected Virginia's religious heritage. As the title suggests, the author presented his argument in the

³⁶ 'William Grayson to William Short, New York, November 10, 1781' in *ibid.*, 151; 'Archibald Stuart to James Madison, Richmond, November 9, 1787' in *ibid.*, 148; 'Alexander Donald to Thomas Jefferson, Richmond, November 12, 1787' in *ibid.*, 155. Edmund Randolph also referred to the political union of the American states as the "rock of our salvation" in defending his decision not to sign the Constitution as a delegate to the Convention in Philadelphia. See 'The Publication of Edmund Randolph's Reasons for Not Signing the Constitution, Richmond, December 27, 1788' in *ibid.*, 274.

³⁷ 'George Nicholas to James Madison, Charlottesville, April 5, 1788' in *DHRC*, Vol. IX, 703; 'George Nicholas to David Stuart, Charlottesville, April 9, 1788' in *ibid.*, 712

manner and format of an Episcopal litany. He began by beseeching “[s]pare us, good Lord” and “[g]ood Lord, deliver us” from “all evil and mischievous members of the state legislature” and laws which favoured speculators and debtors, before going on to declare “[w]e beseech thee to hear us, good Lord” as he requested divine intervention to influence the minds of men in support of the Constitution.³⁸ It was the only example of its kind, but its repeated reprinting suggests that it struck a chord with newspaper editors and the wider population. Its popularity points to the continued political and cultural vitality of Episcopalianism at a time when evangelicalism was beginning to transform society and culture in Virginia. The ‘new’ litany, the litany of republicanism and federalism, reveals an attempt to re-establish the political relevance of the Episcopal Church and demonstrates its cultural compatibility with the new national order at a time when its detractors were depicting the institution as a bastion of privilege, hierarchy and the aristocracy. ‘The New Litany’ was very much rooted in Virginia’s cultural tradition. Unlike a number of other Federalist essays that were reprinted in newspapers across the American states, its appeal was limited to areas where Anglicanism had dominated the religious landscape; it would, for instance, have been entirely counterproductive had it been reprinted in Massachusetts or other New England states. ‘The New Litany’ was southern-style civil religion. Americans shared a desire to give meaning to the new republican order and the new nation, but this desire could be manifested in different ways. They were finding new ways to articulate the significance of their political experiment and, while they shared the same basic cultural heritage, their mode and

³⁸ ‘The New Litany, Virginia Herald, February 21, 1788’ in *DHRC*, Vol. VIII, 400.

means of expression were sometimes very much grounded in local experience and tradition.

Other examples of overtly religious rhetoric in the Virginian press were more in keeping with that found in Massachusetts and elsewhere. The author of an essay published in the *Virginia Independent Chronicle* in November 1787, declared that the proposals were "the most perfect system, that was ever presented to mankind for their adoption...it is a system of government, the prototype of which is in Heaven".³⁹ The following month, in an essay that echoed the rhetoric and concerns of polemicists in Massachusetts, 'Nov Angelus' declared to readers of the *Norfolk and Portsmouth Journal* that: "THIS IS THE DAY OF PROBATION WITH AMERICA...our salvation depends, not only on the measures to be adopted, but on those we adopt soon". Steady in the conviction that Divine Providence worked in the lives of men, both collectively and individually, he argued that the Constitution was "by far the best plan ever offered to humble society: It is the result of a spirit of reciprocal good will among men; and...is founded on the very principles with Christianity itself". For the author of this essay, the relative perfection of the proposals was grounded in its religious foundations. Unlike the author of the previous essay, 'Nov Angelus' believed that only God could author a perfect plan; however, men could achieve excellence in framing institutions the closer their approach and designs resembled the "wisdom, and justness of Divine government".⁴⁰ He did not detail the ways in which the Constitution was founded on the principles of Christianity, but it is clear that he believed (or at least wanted his readers to believe) that the

³⁹ 'Virginia Independent Chronicle, November 28, 1787' in *ibid.*, 177.

⁴⁰ 'Nov Angelus,' *Norfolk and Portsmouth Journal*, December 12, 1787' in *ibid.*, 236.

proposals had received divine sanction and approval. As with other examples of overtly religious rhetoric in both Massachusetts and Virginia, the genuineness of religious conviction on the part of the author is not as interesting or significant as the decision to adopt this kind of approach in political writing. Essays of this nature were nowhere near as popular or prevalent in Virginia as they were in Massachusetts, but they do reveal that citizens of this southern state were exposed to a similar kind of religious pressure to accept and endorse the Constitution.

Writing in the *Virginia Independent Chronicle*, 'Americus' made a direct comparison between Christianity and the Constitution:

The Foederal [*sic*] Constitution is, in one respect, like the Christian religion, the more minutely it is discussed, the more perfect it will appear. Without being guilty of any extravagance of expression or pretending to be the gift of divination, I may venture to foretell, that the Bible and the Foederal Government will be read and revered, when the arguments, insidiously employed against both, are forgotten.

Although the author stopped short of claiming that the Constitution had been divinely inspired, he was happy to declare that the federal government "has certainly received the solemn sanction of Heaven". Continuing to identify the proposals with the Christian faith, he argued that "[t]he Foederal Constitution, like our holy religion, knows no invidious distinctions. It embraces, without discrimination, every individual citizen of the states, and considers every man as entitled to an equal share in the government". Though not explicitly stated, the author seemed to articulate a particularly Protestant form of Christianity in his extended simile: in place of the priesthood of all believers, he imagined a priesthood of all citizens. The people had a "sacred majesty" which would not and could not be threatened

by the aristocratical designs of any senators.⁴¹ Addressing the recently-elected members of the Ratifying Convention, 'An American' went even further, stepping outwith the bounds of an emerging civil religion towards sacrilege with a proclamation that "The voice of the people....is the voice of God".⁴²

Though on a much more limited scale than their northern counterparts, some Virginian polemicists also chose to adopt millennialist-style language. One essayist declared that it was a Constitution "eminently calculated to promote the happiness, the grandeur and importance of America, until time shall be no more", while 'The State Soldier' prophesised the emergence of a new age if the Constitution was successfully ratified:

And thus the day begins to dawn in America when all those pernicious authorities, now exercised in the different states, shall be lost in the general lustre of the whole government, whence PUBLIC JUSTICE in its usual splendour, firmly fixed, shall mark the NEW FEDERAL CONSTITUTION as the rising SUN of the western world.⁴³

An essayist in the *Norfolk and Portsmouth Journal* employed even more dramatic language in an attempt to sway the tide of public opinion. Capitalising on the political importance of Virginia's decision, the author declared that "Virginia is now about to decide the fate of millions, the future happiness or misery of remote posterity". If delegates rejected the Constitution, the author warned that:

[S]he alone will incense the father against his son, the son against his father; she alone must answer for all the horrors of a civil war; the cries of our weeping matrons will fly to Heaven and demand atonement for the loss of their slaughtered

⁴¹ 'Americanus,' *Virginia Independent Chronicle*, December 19, 1787' in *ibid.*, 244-47.

⁴² 'An American,' *Pennsylvania Gazette*, May 21, 1788' in *DHRC*, Vol. IX, 838.

⁴³ 'Virginia Independent Chronicle, November 28, 1787' in *DHRC*, Vol. VIII, 177; 'The State Soldier, *Virginia Independent Chronicle*, April 2, 1788' in *DHRC*, Vol. IX, 652.

husbands, the rapes of their daughters, and the mangled bodies of their sons.

However, if Virginia voted to ratify the Constitution, or, in the words of the author, “accept the heavenly manna,” her choice would be “enstamped on the page of time”. If Virginia accepted the proposal and thereby allowed the Constitution to take effect, the author forecast a glorious future for America:

[C]radle infants will have cause to lisp her praise, and their descendants revere her name; the halcyon day of a general adoption – the glorious epocha will speedily arise when ‘all crimes shall cease, and ancient fraud shall fail; returning justice lift off her scale’ when the amicable ties of reciprocal convenience and equal benefits, shall bind the States in perpetual peace and in an uninterrupted union.⁴⁴

The decision to accept or reject “the heavenly manna” began on June 2 when delegates to the Ratifying Convention in Richmond began their deliberations. After choosing a secretary, John Beckley, and a president, Edmund Pendleton, delegates unanimously agreed that Rev. Abner Waugh would serve as chaplain to the Convention for the duration of its proceedings.⁴⁵ Though the proposal was accepted without question and recorded in the minutes without comment, the decision to elect a single clergyman to oversee the spiritual needs of Convention delegates was far from customary. Members of the House of Delegates had appointed a chaplain almost every year since 1776, but no such precedent had been set by previous Ratifying Conventions in other states.⁴⁶

⁴⁴ ‘Norfolk and Portsmouth Journal, May 21, 1788’ in *DHRC*, Vol. IX, 831.

⁴⁵ ‘Virginia Convention, June 2, 1788’ in *DHRC*, Vol. IX, 909.

⁴⁶ *Journal of the House of Delegates of Virginia. Anno Domini 1776* (Williamsburg, 1776) (Evans 15204); *Journal of the House of Delegates of Virginia. Anno Domini 1777* (Williamsburg, 1777)

In Pennsylvania, where similarly no religious establishment existed, Benjamin Rush's proposal for morning prayers had been roundly rejected by the other delegates as politically problematic.⁴⁷ In New Jersey, delegates had appointed a Presbyterian minister to serve as Convention chaplain. A letter published in the *Pennsylvania Packet* declared "we hold public prayers in greater estimation in New Jersey than they were held in Pennsylvania, notwithstanding the members of our Convention consist, like yours, of gentlemen of *different* religious sects".⁴⁸ In Georgia, the question of a Convention chaplain had not even been raised.⁴⁹ In Massachusetts, where the Congregational Church enjoyed a privileged position as the established

(Evans 15696); *Journal of the House of Delegates of Virginia*. May 5th, anno Domini 1778 (Williamsburg, 1778) (Evans 16156); *Journal of the House of Delegates of Virginia*. Anno Domini 1779 (Williamsburg, 1779) (Evans 16659); *Journal of the House of Delegates of Virginia*. Anno Domini 1779 (Williamsburg, 1779) (Evans 17056); *Journal of the House of Delegates of Virginia*. Anno Domini 1780 (Richmond, 1780) (Evans 17057); *Journal of the House of Delegates of Virginia* (Charlottesville, 1781) (Evans 17416); *Journal of the House of Delegates of Virginia* (Richmond, 1784) (Evans 18859); *Journal of the House of Delegates* (Richmond, 1784) (Evans 18860); *Journal of the House of Delegates of Virginia* (Richmond, 1785) (Evans 19353); *Journal of the House of Delegates of Virginia* (Richmond, 1786) (Evans 20106); *Journal of the House of Delegates, of the Commonwealth of Virginia. General Assembly begun and held at the public buildings, in the city of Richmond, on Monday, the sixteenth of October, in the year of our Lord, one thousand seven hundred and eighty-six, and of the Commonwealth the eleventh* (Richmond, 1786) (Evans, 20840). According the House Journals, no Chaplains were appointed in 1787 or 1788. See *Journal of the House of Delegates* (Richmond, 1788) (Evans 21556); *Journal of the House of Delegates, of the Commonwealth of Virginia. General Assembly begun and held at the public buildings in the city of Richmond, on Monday, the twentieth of October, in the year of our Lord, one thousand seven hundred and eighty-eight, and of the Commonwealth of the thirteenth* (Richmond, 1789) (Evans 22226). A Chaplain was again appointed in 1789, 1790 and 1791. See *Journal of the House of Delegates, of the Commonwealth of Virginia, begun and held at the capitol in the city of Richmond, on Monday, the nineteenth of October, in the year of our Lord, one thousand, seven hundred and eighty-nine, and of the Commonwealth of the fourteenth* (Richmond, 1789) (Evans 23018); *Journal of the House of Delegates, of the Commonwealth of Virginia, begun and held at the capitol of Richmond, on Monday, the eighteenth of October, in the year of our Lord, one thousand seven hundred and ninety, and of the Commonwealth the fifteenth* (Richmond, 1790) (Evans 23944); *Journal of the House of Delegates of the Commonwealth of Virginia, begun and held at the capital, in the city of Richmond, on Monday, the seventeenth day of October, one thousand seven hundred and ninety-one* (Richmond, 1791) (Evans 24966).

⁴⁷ DHRC, Vol. II, 328.

⁴⁸ DHRC, Vol. III, 180, 182; 'Extract of a Letter From Trenton, December 13, Pennsylvania Packet, 15 December 1787' in DHRC, Vol. III Mfm: N.J. 24. This letter was reprinted in New York, Connecticut, Massachusetts and Pennsylvania.

⁴⁹ DHRC, Vol. III, 271-72. The journal for the Georgia Convention offers very little detail; however, having listed the Convention president, secretary and doorkeeper it is probably safe to surmise that delegates in this state considered the appointment of a chaplain unnecessary.

church, delegates had taken the decision to rotate the chaplaincy round every denomination in Boston.⁵⁰

Given this spectrum of precedent and the sensitivity of contemporaries to developments that threatened to undermine even the spirit of the Bill for Establishing Religious Freedom, it would have been very easy, and quite understandable, for delegates in Richmond to have invited clergymen from all major churches to read morning prayers, or indeed to have voted against having a chaplain altogether. The clergyman unanimously accepted by the members of the Convention was an Episcopal minister with Revolutionary credentials, well-connected with the political establishment in Virginia, and a leading participant in polite society. Notwithstanding his allegiance to the former religious establishment, he would probably not have found favour with the growing numbers of evangelicals in the state.

Abner Waugh was born in 1746 into a planter family in Orange County. His marriage to Philadelphia Claiborne, the widow of John Carter and the daughter of Philip Whitehead Claiborne and Elizabeth Dandridge, further enhanced his social standing and connections.⁵¹ After graduating from the College of William and Mary in 1768, he was ordained as an Anglican priest by the bishop of London in 1771 and installed as rector of St. Mary's Parish in Caroline County on his return.⁵² He did not participate in

⁵⁰ Jonathan Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*, Vol. II (Philadelphia: J.B. Lippincott & Co.; Washington: Taylor & Maury, 1836-59), 2

⁵¹ Otto Lohrenz, 'The Reverend Abner Waugh: The "Best Dancer of the Minuet in the State of Virginia"', *The Kentucky Review*, 15 (2003), 28-29.

⁵² *Ibid.*; Certificate concerning the ordination of Abner Waugh as a priest in the Church of England, 10 March 1771, Mss2 W3571 a 2, Virginia Historical Society, Richmond. Waugh is listed as the parish minister for Saint Mary in the Virginia Almanacs for 1774 and 1776. See

the campaign for an American bishop and avoided political controversy until 1776, when he was elected onto the Caroline Committee of Safety.⁵³ Having recently served as the chaplain to the Second Virginia Regiment he was known as a committed supporter of the Patriot cause. Though he quickly became a member of various revolutionary sub-committees, Waugh's period of service was short lived: opposition from high churchmen in the parish to his involvement in political affairs led him to resign after eight weeks. He spent the remaining years of the Revolution serving the spiritual needs of his parishioners and took up no further official positions until he was invited to attend the Ratifying Convention as chaplain.⁵⁴

Paul Carrington, a delegate from Charlotte County, proposed Waugh as chaplain, but his biographer, Otto Lohrenz, believes that Edmund Pendleton, the president of the Convention, was largely responsible for Waugh's election.⁵⁵ Pendleton was a committed supporter of the Episcopal Church and its erstwhile privileges. He had opposed the abolition of taxes to support the clergy in 1776 and in 1785, had been the first to sign a petition of parishioners from St. Asaph's to the House of Delegates defending the "essential" Act for Incorporating the Protestant Episcopal Church. In his final years he devoted considerable effort to protecting the Church's glebe lands,

The Virginia Almanack for the year of our Lord God 1774 (Williamsburg, 1773) (Evans 13059) and David Rittenhouse, *The Virginia Almanack for the year of our Lord God 1776* (Williamsburg, 1775) (Evans 14434). Other almanacs published between 1771 and 1786 do not list parish ministers.

⁵³ Lohrenz, 'The Reverend Abner Waugh', 31. Waugh is not mentioned in the standard history of the Episcopal Controversy in Virginia. See Frederick V. Mills, *Bishops by Ballot: An Eighteenth-Century Ecclesiastical Revolution* (New York: Oxford University Press, 1978).

⁵⁴ Lohrenz, 'Reverend Abner Waugh', 31, 33-34.

⁵⁵ Paul Carrington was a judge of the General Court. See Robert Andrews, *The Virginia Almanack for the Year 1788* (Petersburg, 1787) (Evans 45030); Lohrenz, 'Reverend Abner Waugh', 34.

without success.⁵⁶ Edmund Pendleton accepted the separation of church and state in Virginia and did not campaign for the re-establishment of the Episcopal Church, but he remained devoted to his Church and committed to the concept of public support for religion in general. Pendleton had known Abner Waugh for quite some time: he had been a clerk to the Vestry at St Mary's before the rector's arrival and they had been residents of neighbouring parishes in Caroline County for many years. Pendleton would later request James Madison's assistance in securing the chaplaincy of the House of Representatives for Waugh in 1801. He was, wrote Pendleton, "an agreeable preacher of the most tolerant spirit. An able tutor of youth, and as a man, may be truly ranked amongst the most unexceptional". Pressing his point, he informed Madison that his support would be deemed "a particular kindness" to Pendleton.⁵⁷ Abner Waugh was a reputable, respectable clergyman, who could be trusted to lend dignity and solemnity to proceedings.

There were many clergymen who had played more active roles and made greater sacrifices for the cause of independence; it is therefore unlikely that political criteria were the deciding factor in approving the nomination of Waugh. It is far more likely that his social respectability and powerful personal connections held greater sway with delegates. Abner Waugh was, in many ways, the archetypal Episcopalian minister; the embodiment of everything that Virginian evangelicals rejected. He owned extensive tracts of land in King George and Caroline counties and supplemented his

⁵⁶ David John Mays, *Edmund Pendleton, 1721-1803: A Biography*, Vol. II (Cambridge, Mass: Harvard University Press, 1952), 132-137; David John Mays (ed.), *The Letters and Papers of Edmund Pendleton, 1734-1803*, Vol. II (Charlottesville: University Press of Virginia, 1967), 488-489; Mays, *Edmund Pendleton*, Vol. II, 337-345.

⁵⁷ Mays, *Letters and Papers of Edmund Pendleton*, Vol. II, 694.

professional income by leasing some of this land and breeding horses for racing.⁵⁸ His admission to polite society was secured in part by his family connections and personal wealth, but also by his embrace of the gentry's social pursuits. In addition to his involvement with horse racing, Waugh was apparently a renowned dancer.⁵⁹ His proficiency in dancing the minuet, a signifier of mastery and social finesse, ensured that he was both respected and envied by his genteel contemporaries.

Waugh's election to the Convention may be seen like little more than a footnote to the proceedings, but it was reflective of the delegates' social profile and the strength of the old order at a time when evangelicals were in the process of transforming religious and political culture in the Old Dominion. Unlike in Massachusetts, where the division between Federalists and Antifederalists was almost as much social as it was political, both sides in Virginia attracted the support of leading figures, prominent men with political experience and of good social standing. As James Madison noted in a letter to Archibald Stuart in December 1787, "[i]n Virginia we see men equally respectable in every point of character & marshalled in opposition to each other. In Massts. almost all the intelligent & considerable people are on the side of the new Government".⁶⁰ Though all religious societies now enjoyed equal protection under the law, members of the former establishment were still privileged because of their ties with the social and political elite. The delegates elected one of their own to lead morning

⁵⁸ Lohrenz, 'Reverend Abner Waugh', 35-36.

⁵⁹ George MacLaren Brydon, *Virginia's Mother Church and the Political Conditions Under Which It Grew*, Vol. I (Richmond: Virginia Historical Society, 1947), 238. The author argues that "[t]he story of his ability as a dancer of the minuet came down as a tradition in the section in which he lived". Ibid., 244. See Goodwin, *The Colonial Church in Virginia*, 314.

⁶⁰ 'James Madison to Archibald Stuart, New York, December 14, 1787' in *DHRC*, Vol. IV, 422.

prayers. Notwithstanding the honour and financial reward that the position of Chaplain to the Convention produced, the role was purely ceremonial.⁶¹ Although Waugh reportedly adopted a noticeably more solemn tone on a day when particularly contentious issues were to be debated, he played no part in and had no influence on the deliberations of the Convention. He was not unusual amongst his Virginian colleagues in this respect. Unlike in Massachusetts, where a number of clergymen had been elected to the ratifying assembly, only three clergymen were returned as representatives to the Convention in Richmond and not one played a prominent role.⁶² Indeed, the absence of religious leadership throughout the course of the debate over the Federal Constitution was a notable feature of the ratification contest in Virginia. Shortly after the Constitution had been released to the public in September 1787, members of the Berkeley County Meeting resolved to request that local preachers "of all persuasions" be asked to "prepare a sermon, to be preached that their different places of worship, on a sabbath that they think proper to appoint, to return thanks, in an especial moment, to Almighty God, for inspiring the members of the late Convention with wisdom, amity and unanimity, to form a federal government, with so great judgement and sound policy, under so many and various interests".⁶³ It is not clear whether their request was granted, but the resolution was exceptional. Like any other citizens of Virginia, some clergymen took an

⁶¹ Lohrenz, 'Reverend Abner Waugh', 34. The financial reward is not mentioned in the Convention record.

⁶² Hugh Blair Grigsby, *The History of the Virginia Federal Convention of 1788*, Vol. I (New York: Da Capo Press, 1969), 255. Grigsby states that three clergymen were elected to the Convention, but only provides biographical information for two of them: Charles Clay of Bedford and Robert Andrews of James City, both Episcopal ministers. Clay was an Antifederalist; Andrews was a Federalist. The published delegate list does not provide titles and it is therefore difficult to discern who the third clergymen was.

⁶³ 'Berkeley County Meeting, September 28, 1787' in *DHRC*, Vol. VIII, 22.

interest in the unfolding political debate, but they were not particularly prominent participants. James Madison's clerical cousin and namesake, the president of the College of William and Mary and future first Bishop of Virginia, was atypical in the flurry of correspondence he penned to contemporaries on the subject of the new Constitution. He did not limit himself to matters pertaining to religion; indeed, most of his letters were concerned with improving the political and economic climate of the state and the nation at large. It is unclear whether Madison's letters were public knowledge, but, when other clergymen attempted to debate the Constitution in public, their efforts were roundly condemned. Richard Terrill was profoundly offended by the political activities of the Presbyterian ministers in Washington County who "harangue[d] publicly" on the new frame of government.⁶⁴ This was not a partisan attack on political opponents: the ministers were "very active for & against" the Constitution. Terrick was opposed, not to their political opinions, but to their political activity. It was not appropriate for religious leaders to assume a role, particularly a leading role, in political affairs. This antipathy towards the public activities of Christian ministers had little, if anything, to do with the recent separation of church and state in Virginia. Lay opposition to the political involvement of clerics was a longstanding tradition in Virginia, as evidenced by the disapproval by Waugh's parishioners of his committee membership eleven years previously. Despite the service and sacrifice of Virginian ministers during the Revolution, they were not welcome participants in the new

⁶⁴ 'Richard Terrill to Garret Minor, Washington County, December 6, 1787' in *DHRC*, Vol. VIII, 208.

political order.⁶⁵ Interestingly, anticlericalism was not prevalent in the rhetoric of debate during the ratification contest. In what appears to be an isolated example of apolitical hostility towards the clerical profession in Virginia, a participant in a debate at the Political Club of Danville defended the system of checks and balances in Congress, by arguing that "One set of Men having power have always abused it. – even God's almighty's own Men viz. the Clergy abuse the power given them".⁶⁶ Even in attacking their activities, the speaker still appeared to respect their position and religious authority. The absence of these remarks, however, should not be interpreted as a public endorsement of the Virginia clergy. It is far more likely that the silence of commentators reflects the political weakness of religious leaders in the Old Dominion. In Massachusetts, where ministers were considerably more active in the ratification debate, hostility towards the political pursuits of clergymen was far more prevalent. This hostility was largely motivated by partisan considerations, but the popularity of anticlerical rhetoric reveals an underlying suspicion in the political community towards the civic power of religious leaders in this state. In Virginia, the relative impotence of clergymen in public affairs, grounded in lay opposition to the political activities of priests, undermined anticlerical sentiments.

Virginians were not only opposed to the political engagement of clergymen, but to the infiltration of politics into religious affairs. 'A Gentlemen of Veracity', whose letter to a friend was published in the *Providence United States Chronicle*, was, like Richard Terrill, clearly offended

⁶⁵ Otto Lohrenz, *The Virginia Clergy and the American Revolution, 1774-1799* (Lawrence: University of Kansas PhD thesis, 1970).

⁶⁶ 'Political Club of Danville, Debates over the Constitution, February 23 – May 17, 1788', in *DHRC*, Vol. VIII, 411.

by what he saw as the amalgamation of religion and politics during the ratification dispute. His letter was an attack on the activities of backcountry Antifederalists; in part, because they were electioneering “where the People are very illiterate, and have had little or no Information on the Subject”, but largely because they were “pollut[ing]” the “Temples of the Lord” with their political campaigning.⁶⁷ These “public Declaimers” had been “entering the sacred Desks on Sundays, after divine Service, and thence dealing out their vile Declamations against the Constitution”. The author does not specify which churches had been “polluted”, but his description of “sacred Desks” and “divine Service” suggests that houses of worship belonging to the more respectable denominations, like the Episcopalians or Presbyterians, had been violated. The Gentleman’s offence at the irreligious nature of the activities may seem a little strange when the traditional culture of Virginian Sunday worship is considered. Churches in colonial Virginia, at least those belonging to the Church of England, had never been exclusively religious venues, used only by members for worship and as a place of spiritual sanctuary. As Rhys Isaac has shown, they were often the setting for social and cultural posturing. Given the scattered settlement in Virginia, Anglican churches, like courthouses and inns, operated as “centers of action and communication”, important spaces where people came together and “the community realize[d] itself”.⁶⁸ At church, Virginians publicly acknowledged their position and the position of others in society. By making an entrance after the service had started and then conspicuously occupying reserved pews at the

⁶⁷ ‘A Gentleman of Veracity, Providence United States Chronicle, April 24, 1788’ in *DHRC*, Vol. IX, 757.

⁶⁸ Rhys Isaac, ‘Evangelical Revolt: The Nature of the Baptists’ Challenge to the Traditional Order in Virginia, 1765 to 1775,’ *William and Mary Quarterly*, 31 (1974), 349.

front, the Virginian elite used Sunday worship as an opportunity to assert their elevated social status. Further to this, they would often meet outside the church, both before and after the service, to do business and settle gambling debts.⁶⁹ However, despite the secular nature of these activities, there was clearly a distinction to be made between the covert posturing of the colonial gentry and the overt political activities of the Antifederalist campaigners. It was not simply a question of social status, but rather the nature of the alternative activities and the vulgarity with which they were pursued. In post-Revolutionary, post-disestablishment Virginia the culture of polite society, and the Episcopal Church of which it was a part, retained a powerful hold.

Unlike in Massachusetts, where several religious dissenters were elected as delegates to the Convention, Baptists and Quakers seem to have been entirely absent from the proceedings in Virginia, despite their growing political influence. There is no satisfactory explanation for this: it is possible that the decision to allow prospective delegates to stand in areas where they did not reside thwarted the success of minority candidates. The most notable beneficiary of this decision was George Mason who, facing hostility from citizens in Fairfax for his opposition to the Constitution, attended as a delegate from Stafford County.⁷⁰ With two notable exceptions, all of Virginia's leading statesmen were elected to the Convention. Thomas

⁶⁹ *Ibid.*, 350

⁷⁰ *DHRC*, Vol. IX, 561

Jefferson was still in Paris and George Washington, who would almost certainly have been elected President of the Convention if he had been willing to attend, declined to participate. St John de Crevecoeur believed that Washington refused to go to Richmond because "he fears that if he appears to be zealous a Federalist, that he would be accused of working for himself, since he cannot ignore the fact that if the new Constitution takes place, he is destined to become the first *great President*".⁷¹ The *Charleston City Gazette* reported on 11 July that "General Washington declined a seat in the Virginia convention being of opinion that there was an impropriety in any gentleman who sat in the general convention settling again to consider a Constitution already approved of".⁷² The delegates who were in attendance were divided into three groups: those who wished to ratify the Constitution without amendments, those who wished to ratify the Constitution with amendments, and those who opposed ratification of the Constitution. When delegates took their seats on June 2, it was unclear which faction would prevail.

The Convention at Richmond sat for twenty-three days. On the second day, delegates resolved to discuss the Constitution clause-by-clause before entering into a more general discussion on the Constitution. Federalists hoped that this approach would put their opponents on the defensive and thereby undermine the effectiveness of their criticisms.⁷³ In support of this measure, Antifederalist George Mason warned the other delegates that a full and frank discussion was imperative for the future wellbeing of the nation. "The curse denounced by the divine vengeance, will be small, compared to

⁷¹ 'St. Jean de Crevecoeur to Comte de la Luzerne, New York, May 16, 1788' in *ibid.*, 585.

⁷² *Ibid.*, 586.

⁷³ Richard R. Beeman, *Patrick Henry: A Biography* (New York: McGraw-Hill, 1974), 149.

what will justly fall upon us, if from any sinister views we obstruct the fullest enquiry", he declared.⁷⁴ Despite this resolution, delegates discussed the document as a whole in the days that followed. Patrick Henry's rhetorical style was ill-suited to a clause-by-clause approach and he took the lead in considering the Constitution in the broadest possible terms. His opponents had no option but to do likewise if they wished to respond effectively to his attacks. Therefore, very few issues received the focused attention of delegates. Only a small part of the debate was devoted to religion: delegates were generally more concerned with the socio-economic impact of the proposals. The access of Virginians to the Mississippi River under the new frame of national government was a particularly contentious issue. Patrick Henry, keen to secure the support of Kentuckians and determined to preserve the rights of navigation, warned the other delegates that the northern states were "determined to give up the Mississippi". Responding to Pendleton's conviction that the American government would retain the river, he argued that this would only be a certainty if men were "wise virtuous, and honest" and could therefore be relied upon to follow "the rules of propriety, and the general interest of the Union".⁷⁵ Whereas William Grayson believed that "all mankind act on the best motives," Henry argued that men were "depraved" and therefore could not be trusted: "[h]e has a natural bias towards his own interest, which will prevail over every consideration unless it be checked".⁷⁶ Madison failed to assuage his fears by arguing that the necessary checks, in the shape of a two-thirds majority in the

⁷⁴ 'Virginia Convention, June 3, 1788' in *DHRC*, Vol. IX, 914.

⁷⁵ 'Patrick Henry: Speech in Virginia Convention, June 12, 1788' in *DHRC*, Vol. X, 1220

⁷⁶ 'William Grayson: Speech in Virginia Convention, June 13, 1788' in *ibid.*, 1237; 'Patrick Henry: Speech in Virginia Convention, June 12, 1788' in *ibid.*, 1220.

Senate and the approval of the president, were in place. Henry's unshakeable conviction that the republic needed to be protected against the fallibility of human nature was not a new development in his political thinking. It had been the driving force behind his sponsorship of a bill for a general religious assessment in 1784, which Henry believed would instil the necessary virtue in the populace. If government was unable to promote wisdom and honesty, it needed to guard against the inherent vices of the American people through a rigorous set of Constitutional checks. As a result of legislative laxity at both state and Federal level, the Commonwealth of Virginia now faced two potential threats to its prosperity and well-being: an irreligious, corrupt citizenry and a powerful national government subject to the selfish interests of northerners. Henry's concern about the centralisation of power under the proposed Constitution was not limited to this particular issue, but was rather the principal basis for his opposition to the new government. As one biographer has written, "Henry simply was unwilling for Virginia to place herself at the mercy of her sister states".⁷⁷ This was true in all political matters, whether the issue was territory, slavery or religion.

Given the large numbers of enslaved Africans and African Americans in Virginia, it is unsurprising that slavery also dominated proceedings. In Massachusetts, where there were far fewer slaves and an anti-slavery Quaker had been elected to the Convention, the discussion had a religious dimension and was focused on principles rather than practicalities. This was not the case in Virginia. At the Constitutional Convention, delegates from Virginia had opposed the perpetuation of the foreign slave trade. Although George

⁷⁷ Richard R. Beeman, *Patrick Henry: A Biography* (New York: McGraw-Hill, 1974), 151.

Mason denounced the trade as “nefarious traffic” and warned the other delegates that “slavery would bring the judgement of heaven on a Country,” his objections to the international slave trade were more economic than moral. Like Maryland, Virginia had a surplus of slaves and Mason knew that the abolition of the slave trade would increase the market price of slaves for traders in Virginia.⁷⁸ Mason may have been opposed to slavery in principle, but these concerns did not override his commitment to the economic and social welfare of his native state. This tension between moral misgivings and pragmatic considerations was also played out in Virginia’s Ratifying Convention. Antifederalists simultaneously attacked the framers for protecting the international slave trade while failing to secure the institution domestically. Mason once again attacked the slave trade as “nefarious”, “evil” and “detestable”. He argued that it would weaken the union and admitted that slaves were undesirable property. However, he declared that the abolition of slavery would be ruinous for Virginians and he condemned the Constitution because it offered no protection for citizens in the slaveholding South. In other words, “[t]hey have done what they ought not to have done, and left undone what they ought to have done”.⁷⁹ Patrick Henry was less concerned with the perpetuation of the slave trade, but continually raised the spectre of Congress abolishing slavery under the new Constitution. Though often portrayed as a fervent democrat, Henry argued that the democracy created by the new frame of government would

⁷⁸ Paul Finkelman, ‘Slavery and the Constitutional Convention: Making a Covenant with Death’ in Richard Beeman, Stephen Botein, Edward C. Carter II (eds.), *Beyond Confederation: Origins of the Constitution and American National Identity* (Chapel Hill: University of North Carolina Press, 1987), 215-216.

⁷⁹ John P. Kaminski ed., *A Necessary Evil? Slavery and the Debate over the Constitution* (Madison, WI: Madison House, 1995), 185-186.

undermine the welfare of Virginia by threatening the institution of slavery. He warned delegates in Richmond that the new Congress would have the power of manumission and that they would therefore free all slaves. Henry believed, as Mason did, that slavery was a deplorable institution; indeed, he believed that all men considered it evil. In one of his final Convention speeches, Henry declared, "it would rejoice my very soul, that every one of my fellow beings was emancipated. As we ought with gratitude to admire that decree of Heaven, which has numbered us among the free, we ought to lament and deplore the necessity of holding our fellow-men in bondage".⁸⁰ It was precisely because Henry believed all Americans shared his moral repugnance that he feared the security of slavery in the new nation. Given the chance, northern politicians, who lacked an interest in the institution, would attempt to abolish slavery. The Constitution, Henry believed, gave them that chance because it provided for majority rule in both the House of Representatives and the Senate. Henry was convinced that northerners would enjoy a majority in Congress and that they would use this power to undermine, and finally abolish, slavery in Virginia.⁸¹ During wartime, they would arm and then manumit slaves or call disproportionate numbers of white southerners into the army, thereby leaving plantations insufficiently supervised.⁸² During peacetime, they would levy such heavy taxes on slaveholders that Virginians would be forced to renounce their property. The outcome of manumission would be ruinous for the Old Dominion: the

⁸⁰ 'Patrick Henry: Speech in Virginia Convention, June 24, 1788' in *DHRC*, Vol. X, 1477.

⁸¹ Robin L. Einhorn, 'Patrick Henry's Case Against the Constitution: The Structural Problem with Slavery', *Journal of the Early Republic*, 22 (2002), 550.

⁸² 'Patrick Henry: Speech in Virginia Convention, June 24, 1788' in *DHRC*, Vol. X, 1477; Einhorn, 'Patrick Henry's Case Against the Constitution', 554

freedom of slaves was “incompatible with the felicity of our country”.⁸³ Virginians had a duty, to themselves and to others, to maintain the institution as it had been inherited from their ancestors. They were in no position, either economically or socially, to abolish slavery, but, likewise, they should endeavour to limit its evils and “soften...the rigour of [the slaves’] unhappy fate”.⁸⁴

Unsurprisingly, Federalists in the Convention defended the protection of the slave trade and argued that the new government would not have the power to abolish slavery. Only Zachariah Johnston, a Presbyterian farmer from western Virginia, argued that the Constitution tended towards abolition and that it should be supported for this reason.⁸⁵ “Slavery has been the foundation of that impiety and dissipation which have been so much disseminated among our countrymen”, he declared.⁸⁶ Edmund Randolph, while chastising Antifederalists for their opposition to the manumission of slaves, argued that the Constitution had no tendency towards the abolition of slavery. Madison insisted that the slave trade provision was essential to secure the support of states in the Lower South and that Virginia, which had abolished the importation of foreign slaves, would not be obliged to participate in this traffic. Furthermore, because the new Constitution stipulated a potential end date, unlike the Articles of Confederation, it would improve circumstances in Virginia.⁸⁷ Madison also pointed to the fugitive slave clause as evidence that slavery would be protected by the new national

⁸³ ‘Patrick Henry: Speech in Virginia Convention, June 24, 1788’ in *DHRC*, Vol. X, 1477.

⁸⁴ *Ibid.*

⁸⁵ ‘Zachariah Johnston: Speech in Virginia Convention, June 25, 1788’ in *ibid.*, 1532; Kaminski, *A Necessary Evil*, 160.

⁸⁶ Kaminski, *A Necessary Evil*, 196.

⁸⁷ *Ibid.*, 187.

government and, in response to Henry's accusations that Congress would seek to undermine the institution by taxation, declared that "such an idea never entered into [any] American breast, nor do I believe it ever will".⁸⁸ This conflict between Henry's pessimism and Madison's optimism, between Henry's fears about the inadequacies of the new government and Madison's conviction that the new government would allay the worst excesses of men's character, was also manifested in the debate over religion in the new nation.

In Massachusetts, the Baptist delegates, who had a vested interest in the outcome of the deliberations, led the debate in the Convention over the protection of religious liberty in the proposed Constitution. In Virginia, Henry, who had opposed the passage of the Bill for Establishing Religious Freedom three years previously, assumed the leading role in questioning the protection of religious liberty in the new frame of government. Madison, a longstanding supporter of religious liberty in Virginia and Henry's opponent in the struggle to pass Jefferson's Bill, chiefly defended the Constitution in this matter.

As had been the case in the months leading up to the Convention, the Constitution was not criticised for failing to provide a religious test for officeholders. This issue had occupied the minds of many citizens in Massachusetts, but it was never raised in the Virginia Convention. Instead, the debate on religion and the Federal Constitution centred on the protection of religious liberty in the new nation. As in other states, delegates did not disagree over the need to protect religious liberty, but rather on whether the proposed Constitution threatened to undermine this natural right.

⁸⁸ *Ibid.*, 195.

Patrick Henry's primary objection to the Constitution was that it created a consolidated, rather than a confederated, form of national government. Antifederalists in Virginia and beyond had challenged the authority of the framers to devise a wholly new Constitution, instead of limiting their activities to revising the Articles of Confederation. Henry shared their indignation. The Articles had established a "Perpetual Union between the States", but, critically, this new Constitution abolished this contract. "[W]ho authorised them to speak the language of We, the People, instead of We, the States?", he argued. "States are the characteristics, and the soul of a confederation. If the States be not the agents of this compact, it must be one great consolidated National Government of the people of all the States".⁸⁹ This innovation had profound implications for the sovereignty of each state and its laws, including its religious settlement. Henry argued that the wording, and the motivation behind it, created:

[A] revolution as radical as that which separated us from Great Britain. It is as radical, if in this transition, our rights and privileges are endangered, and the sovereignty of the States be relinquished...The rights of conscience, trial by jury, liberty of the press, all your immunities and franchises, all pretensions to human rights and privileges, are rendered insecure by this change.⁹⁰

This disturbed Henry, not only because he was a firm Virginian patriot, but also because the absence of a federal Bill of Rights rendered the people exposed to all manner of attacks on their personal liberties. Freedom of religion, so hard won in Virginia, could easily be abolished under the new

⁸⁹ 'Patrick Henry: Speech in Virginia Convention, June 4, 1788' in *DHRC*, Vol. IX, 930.

⁹⁰ 'Patrick Henry: Speech in Virginia Convention, June 5, 1788' in *ibid.*, 951.

plans. "My mind will not be quieted until I see something substantial come forth in the shape of a Bill of Rights", he declared.⁹¹

James Madison, framer of the Constitution, author of *Memorial and Remonstrance Against Religious Assessments*, and the instrumental figure in securing the passage of Jefferson's Bill, was best placed to refute Henry's objections. As a firm proponent of religious liberty, he was particularly sensitive to suggestions that the document drafted in Philadelphia the previous summer threatened this important freedom. In reply to suggestions that the consolidated nature of the Constitution would create a national religion, he argued that such a development would be "ineligible". He had "no reason to conclude, that uniformity of Government will produce that of religion". Rather, he was satisfied that religion would remain "perfectly free and unshackled" because the federal government had no jurisdiction over it.⁹² Returning to the subject days later, he refuted Henry's suggestion that only a Bill of Rights could secure religious liberty in the new American nation. "If there was a majority of one sect, a Bill of Rights would be poor protection", he argued. "Happily for the States, they enjoy the utmost freedom of religion". In an argument reminiscent of one put forth in the *Federalist* essays, he declared that "[t]his freedom arises from that multiplicity of sects, which pervades America, and which is the best and only security for religious liberty in any society. For where there is such a variety of sects, there cannot be a majority of any one sect to oppress and persecute the rest". Furthermore, "for this Commonwealth, a majority of the people are decidedly against any exclusive establishment – I believe it to be so in the

⁹¹ 'Patrick Henry: Speech in Virginia Convention, June 17, 1788' in *DHRC*, Vol. X, 1347.

⁹² 'James Madison: Speech in Virginia Convention, June 6, 1788' in *DHRC*, Vol. IX, 994

other States".⁹³ The will of the people to preserve their natural liberties would have more effect in securing these freedoms than any Bill of Rights. Edmund Randolph and Zachariah Johnston echoed Madison's arguments. Randolph, who had previously been concerned that religious liberty was threatened by the Constitution, declared "[t]hat variety of sects which abounds in the United States is the best security for the freedom of religion. No part of the Constitution, even if strictly constructed, will justify a conclusion, that the General Government can take away, or impair the freedom of religion".⁹⁴ Johnston, who had chaired the Committee on Religion in the crucial 1785-1786 session of the House of Delegates and was, like Madison, an opponent of established religion, argued that "[t]he difficulty of establishing a uniformity of religion in this country is immense. – The extent of the country is very great. The multiplicity of sects is very great likewise...The Government will depend on the assistance of the people in the day of distress".⁹⁵

⁹³ 'George Nicholas: Speech in Virginia Convention, June 17, 1788' in *DHRC*, Vol. X, 1341

⁹⁴ 'Edmund Randolph: Speech in Virginia Convention, June 17, 1788' in *ibid.*, 1352

⁹⁵ 'Zachariah Johnston: Speech in Virginia Convention, June 25, 1788' in *ibid.*, 1532.

The Bill of Rights

The Constitution took effect as the new frame of federal government on June 21, 1788 when New Hampshire became the ninth state to ratify. However, Americans knew that without the support of the four largest states, the union would be doomed to failure. When New York ratified just over one month after Virginia, campaigning for the elections to the first federal Congress began in earnest. The character of these elections in Massachusetts and Virginia reflected that of the earlier ratification debates. Citizens in these two states, as in the other nine who had approved the Constitution, were participating in a national event concerned with national issues, but the political debate was often very much coloured by local conditions and local concerns. As in the ratification contest, religion was an important but not a primary issue. Voters were generally more preoccupied with political and economic matters, but religious matters did play a critical role in certain district elections. As in the ratification contest, religious controversies and the appropriation of religious language, however seemingly incidental, provide a valuable insight into the nature of religion's role and influence in these two states.

Biblical references and divine invocations had been prevalent in the political rhetoric of Massachusetts' ratification debate. Though not as ubiquitous in this later contest, this style of expression was still a distinguishable feature of the public discussion in this state, particularly when compared to the more secular nature of political debate in Virginia. While 'A Federal Elector' contrasted the ambitions of those who sought high

political office in the new federal government with those who were content to share the "federal 'loaves and fishes'", 'Real Farmer' expressed his hope that all segments of the population would be represented in a government that was as "firm as Mount Zion".¹ 'An Impartial Observer', printed in the *Hampshire Gazette*, accused two of the three candidates standing for election in the Hampshire-Berkshire district of wearing "a coat of many colours, as that of ancient Joseph".² Concerned with the lack of unity and mutual support among Federalists, Theodore Sedgewick warned that "[t]he Devil is in the Federalists if they divide" and 'Laco', exhausted by the drama of the political debate after several months of emotive and highly-charged discussion, proclaimed "[i]t seems as if the Devil himself had got into the scribblers of the present day", such was the relentlessness of their ranting.

The belief that God was in control and would guide the affairs of Americans in order to lead them to prosperity and happiness was articulated by a number of writers during this election period. 'Solon' reminded the people that they had "hitherto been the peculiar care of a kind Providence" and their independence and political sovereignty had been secured "under the smiles of Heaven".³ Benjamin Lincoln invited heaven to "avert the design" of Antifederalists who were attempting to undermine the electoral process in a letter to Theodore Sedgewick, while 'Monitor' expressed his hopes that "the blessing of a kind Providence" would sustain and protect the

¹ 'A Federal Elector, Massachusetts Centinel, August 2, 1788' in Merrill Jensen and Robert A. Becker eds., *The Documentary History of the First Federal Elections, 1788-1790* (hereafter *DHFFE*), Vol. I (Madison: University of Wisconsin Press, 1976), 447; 'Real Farmer', *Hampshire Chronicle*, October 22, 1788' in *ibid.*, 469.

² 'An Impartial Observer, *Hampshire Gazette*, April 22, 1789' in *ibid.*, 714.

³ 'Solon, *Independent Chronicle*, August 28, 1788' in *ibid.*, 454-55.

new federal government.⁴ 'Adolphus' fully embraced the concept of providential history and presented a millennial-style vision of God's authority prevailing in America:

There is an over-ruling Providence in all things, and the mercies of Heaven and the kind superintendency of the Most High, are always observable in the affairs of our free, rising, and happy country. Here, religious and political freedom are to flourish, and the machinations of wicked, and ambitious men, or the temporary follies of anarchy, can never prevail against them.⁵

Other writers, while similarly steadfast in their conviction that the salvation of the nation was rooted in God, were more guarded in their approach and cautioned their fellow citizens on the critical nature of their electoral decision. Having just been approved in a contentious and controversial national contest, 'Honestus' and 'A True Federalist' were keenly aware that the new system could fail at any given moment and that each stage of the process to put the federal government into effect presented a potential threat to its acceptance and viability. Their essays reveal an underlying concern about the future and the success of the new federal government. 'Honestus' reminded the people that they should "continue steadfast in our first principles", if they wanted to secure the permanence of the new government. Among these "first principles" were "prudence and wisdom under God" to ensure the "salvation of our country".⁶ 'A True Federalist' plainly outlined the decision voters were being invited to make in the forthcoming elections: was the Constitution perfect, had it been "sent directly from Heaven", or should it be amended?⁷ Through the selection of Federalist or Antifederalist candidates, the elections

⁴ 'Benjamin Lincoln to Theodore Sedgewick, Boston, September 7, 1788' in *ibid.*, 459; 'Monitor, Hampshire Gazette, December 17, 1788' in *ibid.*, 607.

⁵ 'Adolphus, Independent Chronicle, January 1, 1788' in *ibid.*, 636.

⁶ 'Honestus, Independent Chronicle, October 30, 1788' in *ibid.*, 475.

⁷ 'A True Federalist, American Herald, December 4, 1788' in *ibid.*, 601.

to the first Congress provided the people with a further opportunity to express their approbation or condemnation of the Constitution.

Massachusetts was divided into eight districts for electing representatives to Congress. Half of the electoral districts were given over to the four counties in the northeast of the state, with the remaining ten counties covered by the other four districts. In dividing the state according to the number of counties rather than population size, the legislature gave the Federalists in Massachusetts an opening advantage: with the exception of Maine, the eastern counties were overwhelmingly Federalist and despite being home to only thirty-five per cent of the population, it enjoyed a fifty per cent share of the state's representation in Congress.⁸

The first round of ballots to elect representatives was held on December 18, 1788. In half the districts, one candidate received a majority of the votes and no further voting was required. All four were Federalists. Samuel Adams had hoped to secure a seat in Congress representing Suffolk district but he was unsuccessful. Though he had voted for ratification with amendments at the Massachusetts' Convention, he was unable to shake off his image as an Antifederalist intent on undermining the new federal government and lost to Federalist, Fisher Ames, in a county known for its support of the Constitution.

In the York-Cumberland-Lincoln (Maine) district, George Thacher's election was mired in religious controversy. His success at the polls was surprising for two reasons: first, he was a Federalist living in an Antifederalist district and, second, he was a Deist. Like most other

⁸ Steven R. Boyd, *The Politics of Opposition: Antifederalists and the Acceptance of the Constitution* (Millwood: KTO Press, 1979), 145.

Americans, people living in Massachusetts were deeply suspicious of those who held religious views that deviated from the mainstream or what was commonly understood to be orthodox religious beliefs. As citizens of this state knew all too well, given the furore caused by Article VI during the ratification contest, the Constitution was blind to the religious affiliation of federal officeholders and therefore Thacher could not be prevented from standing for election, or taking his seat in the national legislature if elected. At this point in time, Thacher already had some political experience on the national stage, having been elected to the Continental Congress in 1787. However, this position of respectability did not protect him from personal attacks based on his religious beliefs during and after the balloting.

Around the time of the election, a series of articles authored by 'Crazy Jonathan' appeared in the local press. Jensen and Becker argue it was likely that Thacher wrote these essays which, among other things, attacked the relationship between religion and politics and the role of religion in civic society. A complementary series appeared alongside 'Crazy Jonathan' in the *Cumberland Gazette*. 'Leonidas' argued that officeholders required more than religious belief and virtue in order to serve as effective legislators. In his mind, education was the most important prerequisite for excellence in public service.⁹ 'Crazy Jonathan' suggested that education should be primarily secular rather than religious in nature and, in line with the framers of the Federal Constitution, argued that religious belief had no bearing on a candidate's suitability for public office. In a statement that would have

⁹ 'Thomas B. Wait to George Thacher, Portland, March 14, 1789' in *DHFFE*, Vol. I, 581.

angered and dumbfounded men like Amos Singletary and Thomas Lusk, he declared:

[E]ven Atheists, or such as are by very religious people deemed Atheists, have demonstrated that they are governed by principles of integrity, and love of truth, as firmly as any of those celebrated martyrs, who with their blood have witnessed a belief of the Christian religion.¹⁰

Unfortunately, there is no firm evidence linking Thacher to the authorship of these essays but his personal beliefs seem to have been in line with those of 'Crazy Jonathan', to the extent that his friends cautioned him against making them publicly known. Daniel Cony wrote to report that he had decided to publish only extracts of Thacher's correspondence in the press since:

[I]t was not the best time to enter into a *field* of theological sentiments or disquisitions, which generally has been accompanied by the most frantic enthusiasts, and virulent bigots who (to use a chemical phrase) abound with vitriolic acids with a certain portion of *aqua regia* and such like ingredients; but I hope the time is fast hastening when such acrimonious miscreants and malcontents of society will give place to the rational, the liberal, and the god-like – and that philosophy...and liberality of sentiment will overspread America and the whole...of the globe, when the lion and the kid shall have sweet intercourse together.¹¹

Two days later, the publisher of the *Cumberland Gazette* informed him that, among local justices, he was looked upon most unfavourably: not one could "say a syllable in [his] favour". The reason given for their dissatisfaction was Thacher's religious beliefs, or lack thereof. "You are said to be a man of no religion – *your integrity in your profession is called in question*", he wrote.¹² There was little to differentiate between a deist and an atheist in the minds of pious New Englanders, although correspondent Ezra Ripley, minister of a church in

¹⁰ Jensen and Becker, eds., *DHFFE*, Vol. I, 578.

¹¹ 'Daniel Cony to George Thacher, Hallowell, March 12, 1789' in *ibid.*, 579.

¹² 'Thomas B. Wait to George Thacher, Portland, March 14, 1789' in *ibid.*, 580.

Concord, took it upon himself to correct those in his company who accused Thacher of "paying no regard to religion". "Whether you will thank or censure me, I leave", he wrote. "But I undertook to clear you of the charge of infidelity, and to maintain, that you were not only a believer in religion, but in revealed religion".¹³

Constitutional barriers protected men like Thacher from official discrimination, but it is quite clear that, notwithstanding the efforts of men like Ripley, many in Massachusetts at this time did not share the sentiments of the framers in this regard. During the ratification debate, polemicists had spoken in abstract, theoretical terms about the problems and the dangers of elected officials who did not share their Christian beliefs, but the first congressional elections forced citizens in Massachusetts to face these issues in reality. Thomas Wait revealed that:

You are said to be unprincipled, light, frothy and even boyish in your conduct and conversation, in private and public life at home, among your friends and acquaintance, and while at New York, and to such a degree, that it was feared the credit of the state which you represented would suffer, and your constituents disgraced, by giving their suffrages to a character to undeserving.¹⁴

Given the antipathy towards heterodox religious beliefs and those who held them, it is not at all clear how many of the accusations levelled at Thacher were driven by prejudice and how many were based on reality. Was he considered "unprincipled, light, frothy and even boyish" because he was "a man of no religion", or were these two separate issues? It does seem clear that his integrity was called into question because he failed to subscribe to certain

¹³ 'Ezra Ripley to George Thacher, Concord, March 30, 1789' in *ibid.*, 581.

¹⁴ 'Thomas B. Wait to George Thacher, Portland, March 14, 1789' in *ibid.*, 580.

religious tenets; the charges levelled at him are certainly in line with those articulated by opponents of Article VI during the ratification debate.

Aware of the importance that Americans placed on both religion and the religious devotion of their public officials, Samuel Nasson wrote to Thacher in the summer of 1789 to advise him on protecting his political career. Cony had been sympathetic, Wait had been cautionary and Ripley had been constructive. whereas Nasson was brutally honest about the impact of Thacher's deism on public perceptions and firmly admonished him to take steps in order to limit the damage caused by his religious views. He described the high esteem with which Washington was held, in large part because he regularly attended church, and compared this with public views of Thacher: "[I]t is otherways with you", he declared. "He never goes to meeting more than twice in one year; nay; he opposed having a chaplain". After articulating the importance of a belief in a future state of rewards and punishments for maintaining good social order and defining true religion as "loving our Maker supremely and our neighbor as ourselves", Nasson explained why it was important for public officials to be seen as good Christians: "a public confession of religion show[s] to the world our religion and sets an example before the Lord on orders and then they can depend upon us because our principles are right". In Nasson's mind, the piety of government officials was an important consideration not because it ensured that candidates would have honesty and integrity, as most contemporaries argued, but because it imbued the political office with authority and promoted trust between the government and the people. If Thacher did not begin to take this issue more seriously by taking steps to improve his public religious profile, Nasson

warned him that he would find re-election difficult. The Constitution could only go so far in determining the nature of politics in the new nation: without the will of the people to support its provisions, little could be achieved.

Increasingly exasperated with Thacher's relaxed attitude to the controversy that his private opinions were creating, Nasson launched into a despairing attack on his correspondent:

Do you attend prayers or do you not? Do you ever go to worship or do you [tarry?] at home and study law or politics, or what is worse spend your time in drinking wine? I think you have time enough for such business for I find you do not work very hard, only four hours in twenty-four. Therefore I think you may afford to worship on Sunday.

If you don't reform it will be against you, for they say that you pretend to slight all revealed religion. [It] is only pretense, I hope. For a gentle man of learning to say that he believes nothing of what the vulgar call religion is forever to lay himself in the way of being lashed by the rev[erends], and you know that in these parts they can down a man if he is twenty-four feet high. Therefore attend prayers and also call at the church on Sundays at least one in four weeks if you mean to live and not die.¹⁵

The controversy over religious heterodoxy was not limited to Maine. In the Hampshire-Berkshire district, no one candidate received a majority of votes in the first three rounds of balloting. Around the time of the first vote, clergyman John Taylor of Deerfield publicly attacked Federalist Theodore Sedgwick, who later went on to secure the seat. Samuel Henshaw informed Sedgwick that Taylor had "essentially injured your reputation and interest, among many good, but weak, Christians, by reporting that you are a Deist". Expecting Sedgwick to ignore or attempt to laugh off "the illiberal and bigoted priest", Henshaw warned him, as Nasson did Thacher, that "the

¹⁵ 'Samuel Nasson to George Thacher, Sanford, July 9, 1789' in *ibid.*, 582-83.

report has had a baneful influence, and it will increase, unless some measures are speedily taken to counteract it".¹⁶

It is not entirely clear whether Sedgwick was, in fact, a deist. 'An Impartial Observer' slammed Taylor for going round the towns "devil-like, prejudicing the minds of men against the remaining candidate, because he had a personal quarrel with him". The author of this essay was very indignant at the action taken by Taylor and his brother and though it is later revealed that he is firmly behind Sedgwick's campaign for Congress, his attack on the clergyman as a "MINISTER" suggests that he was equally motivated by partisanship and anticlericalism in drawing attention to Taylor's actions. The tone of the essay suggests that he was affronted, and intended his readers to be similarly offended, that a clergyman had involved himself in the political dispute. He suggests that Taylor's behaviour is at odds with "the precepts of his divine Lord and Master, who commands his followers to love their enemies, do good to them who hate them, and pray for those that despitefully use or persecute them". However, it is not just the nature of the clergyman's involvement that is "incredible" but the knowledge that a minister had been politically active in supporting two of the four candidates standing for election that was "beyond any man's belief". As in the recent ratification contest, clergymen were involving themselves in political activity, and moreover they were doing so as religious leaders, not as private citizens. Both Ridley and Taylor used their position as clergymen to exercise a degree of authority and to influence the opinions of others (albeit in very different ways). In Taylor's case, his involvement, which was evidently

¹⁶ 'Samuel Henshaw to Theodore Sedgewick, Northampton, December 23, 1788' in *ibid.*, 608.

much more extensive and contentious than that of Ridley, prompted at least one commentator to question the propriety of a minister engaging in political affairs. Anticlericalism in this instance may simply have been an instrument of partisanship, but the breadth of the author's attack, together with the ambivalent response to the political activity of clergymen during the ratification contest, suggests that citizens in Massachusetts were not entirely comfortable mixing religion and politics in this way.

However, religion, or religious orthodoxy, was clearly still an important consideration for voters in Massachusetts, regardless of the liberality of the Constitution on this matter. People in this state wanted their representatives to be good, honest Christians and if they were not, they did not receive the full trust or acceptance of their constituents. However, it was not as simple as this. The number of correspondents happy to support and side with Thacher, together with his victory (no doubt aided by a very low voter turnout) and that of Sedgwick, demonstrate that neither clergymen nor the broader citizenry in Massachusetts were not of one mind on this matter.¹⁷ At least some were willing to overlook or ignore their religious opinions as irrelevant, to separate the men from their private beliefs.

If the role of religious rhetoric and the significance of religious affairs had been a central theme in the Massachusetts' ratification contest, in Virginia the debate had very much been characterised by denominational politics, the rise

¹⁷ Although 90,000 were eligible to vote in the York-Cumberland-Lincoln district election, only 948 ballots were cast.

of the Baptists as a political force, and widespread anxiety over the lack of a bill of rights. Just as the first congressional elections echoed the style and concerns of the ratification debate in Massachusetts, so too did they reflect the nature of the recent contest in Virginia. As before, the language in Virginia was decidedly more secular than in Massachusetts and there was no such furore over the religious opinions of any candidate. The congressional elections in Virginia enabled the Baptists to further consolidate their power and political authority: they were not, at this point, the political powerhouse they would become in the nineteenth century, but they were increasingly important to the outcome of political competitions in the state.

Virginia was divided into ten districts for electing representatives to Congress, with each district covering between six and ten counties. Unlike in Massachusetts, where Federalists controlled the state legislature and had therefore been able to draw district boundaries that gave them the political edge, Antifederalists controlled both houses in Virginia. During the summer of 1788, they had been hard at work trying to resist the political momentum to put the Constitution into immediate action. The legislature had requested a second Constitutional convention (a move that gave James Madison great cause for concern) and, under Patrick Henry's direction, it had done everything in its power to block Madison's election to Congress.¹⁸ After refusing him a seat in the Senate, they placed his county in a district with a number of Antifederalist counties and passed a law that prohibited candidates from running in districts outwith their own.¹⁹ Madison faced an

¹⁸ Richard Labunski, *James Madison and the Struggle for the Bill of Rights* (Oxford; New York: Oxford, 2006), 120-146.

¹⁹ 'James Madison to Thomas Jefferson, Philadelphia, December 8, 1788' in Madison, *Papers*, Vol. XI, 384.

uphill struggle to win the election against his friend James Monroe in District 5; a district where "the Baptist Interest seems every where to prevail" and a district where the "Baptist Interest" would be critical to the outcome.²⁰

The key issue for voters in District 5, as in other districts in Virginia, was that of amendments. The Virginia Ratifying Convention had recommended a number of amendments to the Constitution and Monroe stood on a ticket in full support of all these amendments. Madison had originally opposed any form of amendment to the Constitution, in large part because he believed that the proposed system of amending the document was unworkable and would undermine the efforts of the framers in Philadelphia.²¹ By February 1789, however, safe in the knowledge that the Constitution was being put into place, he had softened his opposition to the idea and began to accept the need for some amendments.²² Many of the amendments drafted by the Virginia Convention had related to the provision of a bill of rights in line with the liberties enumerated in the state's Declaration of Rights. One of most important was religious freedom, particularly for the Baptists in District 5. Antifederalists working on Monroe's campaign spread a false rumour that Madison was no longer concerned with the protection of religious liberty in the winter months of 1788-1789, as a means of bolstering Baptist support for the Antifederalist candidate. Underhand tricks like this caused correspondents to inform Madison, serving as a delegate to the Continental Congress for much of the campaign period,

²⁰ 'Burgess Ball to James Madison, Fredericksburg, December 8, 1788' in Madison, *Papers*, Vol. XI, 386.

²¹ Each state was likely to propose a large number of amendments, many of which would probably be different from those of other states. If a second convention was called to sort out these amendments, Madison feared that their work would weaken the original Constitution and perhaps serve as a means of rejecting the plans all together.

²² Boyd, *Politics of Opposition*, 157.

that “ye Cloven hoof begins to appear” and “it is to be hoped that timely, discoverys will be made of all...Lucifers, and their helish designs totally frustrated”.²³

As with other amendments, Madison had initially rejected the idea of a Bill of Rights, in part because he felt it was important to give the federal government a chance to find its feet before introducing changes to the Constitution, but mostly because he believed it was an unnecessary enumeration of rights implicitly reserved to the people. Like other Federalists, he had argued that all rights not specified in the Constitution were reserved to the people or the states and, as such, there was no point in defining individual rights since the federal government never had any authority over these in the first place: indeed, to list them in a Bill of Rights would limit rather than enhance these liberties.²⁴ There were other reasons for his reticence: in October 1788, he wrote to Thomas Jefferson to explain why he had not supported calls in the Convention for a Bill of Rights. He declared he had believed state governments would provide a necessary check on the power of the federal government; that a Bill of Rights would probably be ineffective; and that any provision protecting religious freedom would be insufficient because it could easily be overridden by the will of the majority. This was something which would clearly be seen in Massachusetts during the congressional elections, where popular opposition to non-Christians assuming office threatened to contravene the spirit, if not the letter, of Article

²³ ‘George Lee Turberville to James Madison, Richmond, October 27, 1788’ in Madison, *Papers*, Vol. XI, 319; ‘Andrew Shephard to James Madison, Orange County, December 14, 1788’ in *ibid.*, 395.

²⁴ Labunski, *James Madison and the Struggle*, 159.

VI.²⁵ He was also concerned that, in attempting to enumerate religious liberty in a way that was acceptable to all Americans, the rights of conscience would be restricted more than they would be by the federal government.²⁶ It is likely that this early opposition to a Bill of Rights fuelled the rumour that Madison, a champion of religious liberty in Virginia since the framing of the Declaration of Rights in 1776, was no longer committed to liberty of conscience. However, contrary to the rumours, not only was Madison still deeply dedicated to the principle of religious liberty, he was now also committed to the drafting of a Bill of Rights to accompany the Constitution. Indeed, while campaigning he promised that if elected, he would sponsor a Bill of Rights in Congress and work to secure its successful passage, just as he had done with the Constitution. Madison's rather dramatic change of heart can partly be attributed to political expediency: the attempt to avoid calling a second convention, the need to secure popular acceptance of the Constitution, and the desire to refute the allegations of Antifederalists in his district, but it can also be attributed to a shift in political philosophy. In his letter to Jefferson, Madison declared that "a bill of rights is what the people are entitled to against every government on earth, generally or particular, & what no government should refuse or rest on inference".

Concerned that public pledges to support a Bill of Rights in Congress would not be enough to overturn the rumours spread about him, Madison wrote a detailed letter to George Eve, the Baptist minister of Blue Run Church in Orange County, a few miles from Madison's Montpelier plantation, in

²⁵ *Ibid.*, 160.

²⁶ Irving Brant, *James Madison, Vol. III: Father of the Constitution, 1787-1800* (New York; Indianapolis: Bobbs-Merrill, 1950), 268.

January 1789. Given the size of the congressional district, it was impossible for either Madison or Monroe to visit every town and therefore both candidates relied upon friends and the dissemination of written information through letters and newspaper commentaries in order to get their message across.²⁷ Like the Antifederalists, Madison knew that the support of the Baptists would be critical to his success in the final ballot and since Eve had already taken it upon himself to contradict false reports about his political convictions, Madison believed it was only right and fair and that Eve should be made fully aware of his position of the Constitution, the need for amendments and the importance of religious liberty. He began by admitting that he had “never seen in the Constitution as it now stands those serious dangers which have alarmed many respectable Citizens”. However, while he still believed that the new frame of government posed no threat to the liberties of the people, he was now of the opinion that a Bill of Rights “if pursued with a proper moderation and in a proper mode, will not only be safe, but may serve the double purpose of satisfying the minds of well meaning opponents, and of providing additional guards in favor of liberty”. To this end, he declared his support for preparing a Bill of Rights in the first session of Congress, to be ratified by the states.²⁸ Fortunately for Madison, the letter had the desired effect. At a meeting of Antifederalists in Culpeper County, Eve defended Madison against the attacks of Joel Early who accused him of being fervently opposed to amendments. According to Benjamin Johnson, who was also in attendance:

²⁷ Labunski, *James Madison and the Struggle*, 167.

²⁸ ‘James Madison to George Eve, Orange, January 2, 1789’ in Madison, *Papers*, Vol. XI, 404-05.

Eve took a very Spirited and decided part in your favor...reminded them of the many important Services which you had rendered...in particular the Act for establishing Religious Liberty...and he thought they were under Obligations to you, and had much more reason to place their Confidence in you, than Mr. Monroe.²⁹

In addition to calling on the further support of Eve, George Nicholas encouraged Madison to write to Reuben Ford, the minister of Goochland Baptist Church, since a majority of those living in that county were against Madison in January 1789.³⁰ During the ratification debate, Madison had been rumoured to have dropped by John Leland's house on the way home from New York to relieve his fears about the protection of religious liberty under the new Constitution. Leland was seen as a pivotal figure in the election of Madison to the Ratifying Convention since the Baptists in the county had originally been fervently opposed to the Constitution and, by default, to Federalist candidates. In the congressional elections, Madison would once benefit from Leland's support. On January 2, 1789 Nicholas suggested that he prevail upon Leland to "exert himself" in Louisa and Goochland, since support for Madison in these two counties was very uncertain.³¹ Ten days later, Benjamin Johnson wrote to Madison to inform him that Baptist ministers from Louisa would shortly be gathering for a political meeting to discuss the forthcoming elections. The time and place of the meeting was not yet known, but Johnson had been told that Monroe was due to set out the following day in order to attend the assembly. Concerned that Madison should not miss the opportunity to speak to such a group of influential

²⁹ Labunski, *James Madison and the Struggle*, 167.

³⁰ 'George Nicholas to James Madison, January 2, 1789' in Madison, *Papers*, Vol. XI, 408.

³¹ Ibid.

figures, he had left a note at Leland's house, asking him to notify Madison of the date and location of the meeting so that he could attend.³²

On January 15, 1789, almost two weeks before the day of the election, an address to the "Freeholders of the several denominations" was published in Fredericksburg's *Virginia Herald*. It restated Madison's credentials as a longstanding supporter of religious liberty, reminding the people that he had been in large part responsible for blocking the passage of the Assessment Bill; a law "(let it never be forgot) which received the patronage and support of Mr. Henry". Since the beginning of the ratification contest, Henry had assumed the mantle of defending religious liberty against the tyrannies of the Constitution, but the author of this address was determined to reiterate Henry's support for a system of ecclesiastical funding which many evangelicals believed ran contrary to the principle of religious liberty and the sixteenth article of Virginia's Declaration of Rights.

The author believed that religious liberty was "well secured under the new government", but that the effectiveness of the relevant Constitutional provisions was, at least in part, dependent on the election of Madison to Congress. As Eve would argue two days later at the meeting of Antifederalists in Culpeper, Virginians had a moral duty to support Madison because of his tireless efforts to secure their religious liberties. "It is not every age, not every country, which can furnish a man of equal endowments and virtues with the one you have it your power to chuse [*sic*]", the author declared. "Virginia cannot boast his equal".³³

³² 'Benjamin Johnson to James Madison, January 12, 1789' in Madison, *Papers*, Vol. XI, 414-15.

³³ 'To the Freeholders of the several denominations in the Counties of Spotsylvania, Culpeper, Orange, Albemarle, Amherst, Fluvanna and Louisa, *Virginia Herald* (Fredericksburg), January 15, 1789' in *DHFFE*, Vol. II. 346.

Madison was elected as the representative for District 5 on February 2, 1789. Shortly after his victory, John Leland wrote to Madison to congratulate him on his success. Playing down the significance of his efforts to secure Madison's election, he declared: "if my Undertaking in the Cause conducted Nothing else towards it, it certainly gave Mr. Madison one Vote". After commenting on various economic issues, he confessed his ignorance of literary and political affairs, but asked "if religious Liberty is anywise threatened...I shall receive the earliest Intelligence".

The success of Madison's campaign was due, in no small part, to the support of various religious groups in his district. As Richard Labunski argues, "[b]oth candidates understood the importance of religious groups to the election". During the course of their campaign, Madison and Monroe had visited both a Lutheran congregation in Culpeper and the Baptist meeting in Louisa in order to address their particular concerns.³⁴ Religious groups had been important during the ratification contest, but they had not been as critical to the outcome as they were in this district election. Both candidates appreciated the importance of amendments to religious groups in the area and they understood how effective denominations could be in terms of mobilising political support. The Baptists had been growing steadily in social and political importance since the Revolution and this congressional election provided them with a means of consolidating and solidifying their political power, in District 5 if not elsewhere in Virginia. Religion did not play a particularly important role in any other district, bar District 7, where candidate John Page wrote to Robert Carter, a Baptist convert, to ask him to

³⁴ Labunski, *James Madison and the Struggle*, 166.

inform Reubin Garnett of his "Attachment to religious as well as civil Liberty". In a letter that lacked the relative subtlety and sophistication of the address to the denominations in Madison's district, Page outlined his apparent longstanding commitment to religious liberty and his respect for the Baptist community, as articulated in a previous conversation with the recipient of the letter:

The Conversation I allude to, was...when I told you, that instead of laughing at you as some of your Friends did, I had always applauded the Religious Turn you had taken – that I respected Christians of every Denomination, & that I wished, however they might differ about Rites and Ceremonies, that they would all agree in one great Point, that, of shewing [*sic*] that they are Christ's Disciples, 'by loving one another', that I had been supposed an enemy to Dissenters from the Episcopal Church, because I had always opposed their Petition for the Sale of Glebes & Churches; but that I should have opposed such Petitions with equal Warmth had those churches belonged to any other religious Society; for I should ever think it my Duty to support the civil Corporation, or of an individual – If you do not recollect these Assertions, Sir, I can declare that they are, & have been my real Sentiments; that I glory as much I being a Friend to religious, as to civil Liberty".³⁵

Though religion did not play a decisive role in every one, or even the majority of district elections, where there were large Baptist communities or influential Baptist leaders, candidates were forced to engage with them and their particular concerns. As astute politicians and commentators were beginning to realise, evangelical groups were in the ascendancy in Virginia and perfectly placed to wield a considerable degree of influence at this important political juncture.

³⁵ 'John Page to Robert Carter, January 25, 1789' in *DHFFE*, Vol. II, 355.

The first Federal Congress met in New York on March 4, 1789.³⁶ Despite the controversy surrounding the lack of a bill of rights during the ratification process, few congressmen were in a hurry to consider amendments that would protect the individual liberties of Americans. One month into the legislative session, Madison informed the House that he would be introducing amendments to the Constitution on May 25. Ever sensitive to the political importance of amendments in terms of silencing the Constitution's critics, stalling the momentum for a second convention, encouraging the ratification of North Carolina and Rhode Island, and preserving his own political reputation, he was acutely aware that the House had failed to address the matter and that this silence would be transmitted to the people in the transcripts of the congressional debates that were widely circulated in the press.³⁷ After the revenue debate forced Madison to postpone twice, on June 8, he requested that the House assemble as a Committee of the Whole to receive his proposals. The response from his colleagues was decidedly lukewarm. Some believed it was too early to consider amendments; they believed that the federal government needed to find its feet before it began to think about revising the Constitution. They were concerned that Congress had more pressing issues to deal with or they were simply worried that the introduction of such a contentious measure would undermine the early spirit of goodwill and co-operation that existed in the assembly. Others were more

³⁶ Due to various delays, the House of Representatives was not officially opened until April 1 and the Senate until April 6.

³⁷ Kenneth R. Bowling, "'A Tub to the Whale': The Founding Fathers and the Adoption of the Federal Bill of Rights", *Journal of the Early Republic*, 8 (1988), 224; Robert A. Rutland, *The Birth of the Bill of Rights, 1776-1791* (Chapel Hill: Institute of Early American History and Culture by University of North Carolina Press, 1955), 198

generally uncomfortable with the idea of amending the Constitution: they were Federalists or they represented Federalist districts and they did not want to threaten the stability of the federal government by discussing Constitutional revisions that might weaken the legislature or alarm the people unnecessarily.³⁸ Madison dismissed these objections, arguing that the proposals had been postponed twice already and the people were expecting amendments that would protect their liberties.³⁹

In addition to the demands made by his constituents and others across the United States, a number of religious groups had written to George Washington, ostensibly to signal their approbation of his election, but also to affirm their interest in the protection of civil and religious liberties in the new nation. In May 1789, the General Assembly of Presbyterian Churches wrote to the new president to ask that their rights be safeguarded.⁴⁰ In response, he affirmed his belief in the guiding hand of Providence and the importance of “piety, philanthropy, honesty, industry and economy” to the prosperity and wellbeing of the United States. Addressing the issue of religious liberty, he declared that:

While all men within our territories are protected in worshipping the Deity according to the dictates of their consciences; it is rationally to expected from them in return, that they will be emulous of evincing the sincerity of their profession by the innocence of their lives, and the beneficence of their actions: For no man, who is profligate in his morals, or a bad member of the civil community, can possibly be a true Christian, or a credit to his religious society.⁴¹

³⁸ *The Debates and Proceedings in the Congress of the United States* (Washington, 1834-35), I Congress, I Session, I, 441-446; Rutland, *Birth of the Bill of Rights*, 200-01; Bowling, ‘A Tub to the Whale’, 234.

³⁹ *Annals of Congress*, I Congress, I Session, I, 443-44, 449.

⁴⁰ Lambert, *Founding Fathers and the Place of Religion in America*, 259.

⁴¹ ‘George Washington to The General Assembly of the Presbyterian Church, New York, May 1789’, in George Washington, *The Papers of George Washington: Presidential Series*, Vol. II, ed. Philander D. Chase (Charlottesville: University of Virginia Press, 1987), 421.

Baptists in Virginia were more explicit in expressing their concerns that the federal government might establish a national church. They recalled their concerns about the Constitution during the ratification debate because they feared that "liberty of conscience, dearer to us than property or life, was not sufficiently secured". Extolling their commitment to the principle of Constitutional revision and the need for a stronger federal government, they nevertheless expressed their concern that the frame of government drafted in Philadelphia might lead to religious oppression "should any one Society in the union preponderate over all the rest". However, ignoring Madison's efforts to assuage their fears, they declared that they had been consoled by the knowledge that Washington had signed the Constitution and would protect religious freedom when he was elected. In his reply, Washington agreed with their assessment of his commitment of religious liberty:

If I could have entertained the slightest apprehension that the Constitution framed in the Convention, where I had the honor to preside, might possibly endanger the religious rights of any ecclesiastical Society, certainly I would never have placed my signature to it; and if I could now conceive that the general Government might ever be so administered as to render the liberty of conscience insecure, I beg you will be persuaded that no one would be more zealous than myself to establish effectual barriers against the horrors of spiritual tyranny, and every species of religious persecution...every man, conducting himself as a good citizen, and being accountable to God alone for his religious opinions, ought to be protected in worshipping the Deity according to the dictates of his own conscience.⁴²

Finally, members of the Jewish community invited Washington to acknowledge that all Americans, not only Christian Americans, would be

⁴² 'George Washington to The United Baptist Churches of Virginia, New York, May 1789' in Washington, *Papers: Presidential Series*, Vol. II, 423-425.

granted full religious freedom. Adopting the kind of rhetoric most recently seen in the Massachusetts' ratification debate, members of a congregation in Newport reflected on "those days of difficulty and dangers, when the God of Israel, who delivered David from the peril of the sword – shielded your head in the day of battle", and expressed their hope that "the same Spirit, who rested in the bosom of the greatly beloved Daniel, enabling him to preside over the Provinces of the Babylonish Empire, rests, and will ever rest upon you, enabling you to discharge the arduous duties of Chief Magistrate in these States". They reminded him of the religious discrimination they had faced and relayed their gratitude that:

[W]e now, (with a deep sense of gratitude to the Almighty Disposer of all events) behold a Government...which to bigotry gives no sanction, to persecution no assistance – but generously affording to All liberty of conscience, and immunities of citizenship – deeming every one, of whatever nation, tongue, or language equal parts of the great governmental machine.⁴³

Given the public interest in the issue of amendments, particularly those relating to the protection of religious liberty, Madison did not want to tarnish either his own reputation or that of the new federal government by ignoring the wishes of so many Americans, as articulated in the proposed amendments transmitted from the various ratifying conventions.

Madison's amendments were divided into nine sections. Some of them revised Constitutional provisions like the ratio of representatives to population, but most were concerned with securing civil liberties. None of the amendments fundamentally altered the structure or the spirit of the

⁴³ 'Newport Congregation to the President of the United States, August 17, 1790', in *Documentary History of the Jews in the United States, 1654-1875*, ed. Morris U. Schappes (New York: Citadel, 1952), 79.

Constitution: it was Madison's intention simply to improve the original document, not radically alter its nature or provisions. Given the range of demands from across the states, Madison made a conscious effort to make his amendments as broadly acceptable as possible so that they could be readily approved by Congress and the states.⁴⁴ In compiling his list of rights, which included freedom of the press, freedom of speech, the right to bear arms, and the right to trial by jury in civil and criminal cases, Madison borrowed extensively from both the Virginia Declaration of Rights and the list of amendments composed by the ratifying conventions of various states, particularly that of his own. Two of the amendments were concerned with religion. The first, in the fourth section, stated:

The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.⁴⁵

The second, in the fifth section, stated: "No state shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases".⁴⁶

Unlike most of the other amendments, this came only from Madison; no convention requested it.⁴⁷ One of the main arguments put forth by the Federalists during the ratification debate was that civil liberties were already protected by the states and a bill of rights was therefore unnecessary. However, constitutions varied from state to state and not all declarations of rights protected the same liberties. Every state protected religious liberty, but

⁴⁴ Labunski, *James Madison and the Struggle*, 199.

⁴⁵ *Annals of Congress*, I Congress, I Session, I, 451.

⁴⁶ *Ibid.*, 452.

⁴⁷ Brant, *James Madison*, Vol. III, 265.

five also provided for some form of established religion.⁴⁸ Some of Madison's amendments, like that which prohibited any state from violating the rights of conscience, were designed to expand the liberties of the American people. He was concerned that in some states, certain fundamental rights were not sufficiently protected and he therefore used the opportunity presented by a new frame of federal government to try to ensure that the basic liberties of all Americans were protected.⁴⁹ Acknowledging that some states already protected trial by jury, freedom of the press and freedom of conscience, he argued that Americans had nothing to fear from the creation of a "double security" on these points:

[N]othing can give a more sincere proof of the attachment of those who opposed this Constitution to these great and important rights, than to see them join in obtaining the security I have now proposed; because it must be admitted, on all hands, that the State Governments are as liable to attack the invaluable privileges as the General Government is, and therefore ought to be as cautiously guarded against.⁵⁰

The reaction to Madison's amendments was only slightly warmer than the reaction to the idea of amendments: many representatives remained fundamentally opposed to the timing or the principle of amendments. On July 21, Madison reintroduced his proposal and requested that the Committee of the Whole consider his amendments. Instead, the House resolved to send Madison's proposal, along with requests from the state ratifying conventions, to a select committee consisting of one representative from each state. In its report, the committee tidied Madison's original draft but kept most of his

⁴⁸ Labunski, *James Madison and the Struggle*, 199-200.

⁴⁹ *Annals of Congress*, I Congress, I Session, I, 456.

⁵⁰ *Ibid.*, 458.

original wording. On August 13, after further prompting from Madison, the House began to consider the committee's report.⁵¹

The issue of religious freedom was one of the first to be discussed. The committee had rewritten Madison's amendment to read: "[N]o religion shall be established by law, nor shall the equal rights of conscience be infringed".⁵² The article was broadly similar to Madison's original draft, but there were a couple of notable differences. The committee had removed the clause prohibiting the abridgement of civil rights on the basis of religious belief or worship so that only freedom of conscience was protected. It was a subtle revision, but one reminiscent of the distinction made between liberty of conscience and religious liberty in Virginia's earlier church-state debate. Liberty of conscience protected only free thought; it had no bearing on modes of worship, the administration of church affairs or civil liberties. However, when combined with a prohibition on a religious establishment, the clause offered greater protection than it would on its own. Madison had originally declared that "no national religion shall be established", most likely to signify that the restriction contained in the clause applied only to the federal government and not to the individual states. States that maintained an established church or some other form of religious establishment would not be threatened by this proposal.⁵³ The committee had changed Madison's original version to "no religion shall be established by law". The meaning of both was substantially similar, but neither was particularly clear. Did Madison mean that no religion or church should be privileged over the

⁵¹ Bernard Schwarz ed., *The Roots of the Bill of Rights: An Illustrated Source Book of American Freedom*, Vol. V (New York: Chelsea House, 1971), 1050-51.

⁵² *Annals of Congress*, I Congress, I Session, I, 757.

⁵³ Levy, *The Establishment Clause*, 76.

others, as the recommendations from Virginia, New York, and North Carolina had suggested, or did he mean that no religious establishment could be created by the federal government?⁵⁴ In later defending the clause, Madison sometimes adopted the language of nonpreference as a means of explaining his use of the word "national", but it is likely that, given his longstanding opposition to state-supported religion, he intended the clause to prohibit any form of establishment.⁵⁵

The reaction of the House to this amendment was not entirely positive. Roger Sherman continued his attack on the principle of Constitutional revision by arguing that the amendment was entirely unnecessary: Congress had no authority to make a religious establishment, so the clause would therefore be a superfluous addition to the Constitution. Madison responded by saying that the clause had been written in response to the concerns of some Antifederalists who believed that the Constitution would have the authority to interfere in religious affairs or favour one religious sect over another. He suggested that the word "national" be put back in front of the word "religion" to remove any fears that the clause was somehow irreligious and demonstrate that it was not designed to overrule local or state decisions on religion. Both John Sylvester and Benjamin Huntington argued that the

⁵⁴ The Virginia Convention proposed the following amendment, largely based on the sixteenth article of the Declaration of Rights: "That religion or the duty which we owe to our Creator, and the manner of discharging it can be directed only by reason and conviction, not by force or violence, and therefore all men have an equal, natural and unalienable right to the free exercise of religion according to the dictates of conscience, and that no particular religious sect or society ought to be favored or established by Law in preference to others". In ratifying the Constitution, the New York Convention declared "That the People have an equal, natural and unalienable right, freely and peaceably to Exercise their Religion according to the dictates of Conscience, and that no Religious Sect or Society ought to be favoured or established by Law in preference of others". By contrast, the New Hampshire Convention had proposed the following amendment: "Congress shall make no Laws touching Religion, or to infringe the rights of Conscience".

⁵⁵ Levy, *The Establishment Clause*, 80-81.

clause could be detrimental to religion. Sylvester "feared it might be thought to have a tendency to abolish religion altogether", while Huntington argued that the words might be "extremely hurtful to the cause of religion". He suggested that neither Madison nor the committee had been sufficiently sensitive to the nature of religious settlements of northern states, where religious liberty was often bound with religious obligation. A clause similar to that proposed by Madison or the committee could undermine the law in these parts by excusing recalcitrant citizens from their financial commitments to a particular religious organisation. Madison maintained that the amendment did not pose any threat to organised religion; it was designed to prevent the establishment of a national church and protect the religious freedoms of the people. Elbridge Gerry declared his opposition to the use of the word "national" because it suggested that the Constitution had created a national, rather than a federal, government. If this clause was accepted, it could give the government cause to consolidate its authority in other areas; a charge that Madison roundly refuted. By contrast, Daniel Carroll announced that he was greatly in favour of adopting the clause and he believed that "it would tend more towards conciliating the minds of the people to the Government than almost any other amendment he had heard proposed". Samuel Livermore suggested that the clause be reworked to read, "Congress shall make no laws touching religion, or infringing the rights of conscience", and this was approved.⁵⁶

Two days later, the House considered the second of Madison's amendments relating to religion. The committee had made only minor

⁵⁶ Ibid., 757-59.

changes to Madison's original draft, so that the clause now read: "[N]o State shall infringe the equal rights of conscience, nor the freedom of speech or of the press, nor of the right of trial by jury in criminal cases". Madison declared that he thought that this was "the most valuable amendment in the whole list" because it was just as important to restrain the state governments from violating the rights of the people as it was the federal government, but Thomas Tucker objected to the far-reaching nature of the amendment. "It will be much better", he argued, "to leave the State Government to themselves, and not to interfere with them more than we already do; and that is thought by many to be rather too much". The House rejected Tucker's motion to strike out the amendment and the clause was adopted.⁵⁷

On August 19, the House began to consider the amendments as a whole. Sherman reiterated his earlier argument that the amendments concerning individual liberties should be added as a supplement to the Constitution, rather than integrated into the main body of the document as Madison had originally proposed. On this occasion, Sherman was successful. The following day, Fisher Ames successfully moved that the fourth amendment be altered from "Congress shall make no laws touching religion, or infringing the rights of conscience" to: "Congress shall make no law establishing religion, or to prevent the free exercise thereof, or to infringe the rights of conscience".⁵⁸ Having now approved all seventeen amendments, a committee was called to prepare and transmit a report to be sent to the Senate for its approval.

⁵⁷ Ibid., 783-84.

⁵⁸ Ibid., 796. Irving argues that "[t]here can be no doubt that this was written by Madison". See Brant, *James Madison*, Vol. 3, 271

The majority of the Senate's work was stylistic and was concerned with tightening up the language of the amendments. However, it also made a few significant alterations to the proposal sent from the House. It cut the number of amendments from seventeen to twelve and made substantive changes to the articles concerning religion. The most significant change was their elimination of article eleven, the one that limited the actions of the states and the one that Madison described as "the most valuable amendment in the whole lot".⁵⁹

Senators spent quite some time on September 3, 1789 discussing the details of the third article that prohibited Congress from establishing a religion or prohibiting the free exercise of religion. A motion was put forth to replace "religion, or prohibiting the free exercise thereof", and insert the words "one religious sect or society in preference to the others" so that the article would read: "Congress shall make no law establishing one sect or religious society in preference to the others; nor shall the rights of conscience be infringed".

This was rejected, as was a proposal to remove the article altogether. An unsuccessful motion was then put forth to replace the original article with: "Congress shall not make any law infringing the rights of conscience, or establishing any religious sect or society". Like the other proposals, however,

⁵⁹ Schwartz, *Roots of the Bill of Rights*, Vol. 5, 1145

this too was rejected. A vote on the original article, as transmitted from the House, similarly failed but when a motion was put forth to remove the last part of the article, “nor shall the rights of conscience be infringed”, it was approved. The third article therefore now read: “Congress shall make no law establishing religion, or prohibiting the free exercise thereof”.⁶⁰

Unfortunately, Senate proceedings were undertaken in private until 1794 and therefore there is now way of knowing who spoke in these debates, who proposed each motion or why certain phrases were dropped or added. It is quite clear that the Senate was unhappy with the House’s original phrasing, but it is not clear why. On September 9, the Senate returned to the third article and elected to combine it with the fourth article on free speech, so that it read:

Congress shall make no law establishing articles of faith, or a mode of worship, or prohibiting the free exercise of religion, or abridging the freedom of speech, or the press, or the right of the people peaceably to assemble, and petition to the government for the redress of grievances.⁶¹

In articulating the various ways in which Congress would not interfere with religion, the Senate significantly weakened this article. There was considerably more scope for interpretation in an article that prohibited any law “establishing religion” than there was in one that prohibited any law “establishing articles of faith, or a mode of worship”. Further to this, it suggested, like previous Senate versions, that Congress would only be prevented from favouring one denomination or sect over others.⁶² Again, there is no way of knowing why the Senators decided to rework entirely this

⁶⁰ Ibid., 1148

⁶¹ Ibid., 1153

⁶² Levy, *The Establishment Clause*, 82.

article at the end of their deliberations. However, given the time they spent agonising over its provisions and phrasing, it is quite clear that they recognised its importance and potentially contentious nature.

The House of Representatives received the Senate's revisions on September 10 and voted on its changes eleven days later. The House disapproved of some of the Senate's corrections and a Committee of Correspondence was formed to communicate and co-operate with the upper house on issues of disagreement. One of the major issues of disagreement was article three. Despite Madison's earlier commitment to article eleven, the House made no effort to resurrect it. The committee members, and Madison in particular, focused their efforts on strengthening the severely weakened article on religious freedom.

Madison was unwilling to accept the Senate's revisions of article three. He had been a champion for religious liberty since the early years of the Revolution, had spent years in the Virginia legislature campaigning for the disestablishment of the Episcopal Church, and was now a trusted political ally of evangelical groups at home. Given his willingness to use the federal Constitution in order to secure liberties that were not protected under certain state Constitutions, it is hardly surprising that he was not content with the Senate's final version of article three. It was too specific and therefore too limiting. Returning to the simplicity and forcefulness of an earlier House draft, Madison proposed the following:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Irving Brant argues that this version “most directly covered the thing [Madison] was aiming at – absolute separation of church and state and total exclusion of government aid to religion”.⁶³ Given the process of drafting, revising and rejecting revisions, it seems quite clear that Madison intended this clause to prohibit any form of religious establishment, not simply the privileging of one religion or denomination over the others. Indeed, the entire purpose of the Bill of Rights had been to limit the powers of Congress, not enumerate them. Like other amendments proposed, the first amendment was designed to restrict the powers of the federal legislature to those outlined in the Constitution. In the words of Leonard Levy: “At bottom the amendment expressed the fact that the Framers of the Constitution had not empowered Congress to act in the field of religion”.⁶⁴ On September 25, the Senate approved the House’s amendments. The proposed Bill of Rights was thereafter sent to the president so that copies could be distributed to the states for ratification.

The people of the states had ratified the Constitution through specially assembled conventions, in accordance with contemporary political thought

⁶³ Brant, *James Madison*, Vol. III, 272.

⁶⁴ Levy, *The Establishment Clause*, 84.

“that the sovereign people spoke directly through a convention elected for a specific purpose”.⁶⁵ By contrast, the amendments were to be ratified by the state legislatures and, as such, were neither popularly accepted nor rejected. William B. Munro suggests that congressmen chose to send what would become the Bill of Rights to the state legislatures rather than specially assembled state conventions because it would expedite the ratification process and they were keen to put the amendments into effect.⁶⁶ Unfortunately, the legislative record reveals little: congressmen discussed the nature of the amendments in great detail, but they did not appear to be overly concerned by the process of ratification. Philip L. Martin suggests that Madison and the other representatives connected convention proposal with convention ratification and congressional proposal with legislative ratification when considering procedures for amending the Constitution. Because Madison and other Federalists were deeply wary about the potential divisiveness and disruption of a second federal convention, they favoured the proposal of amendments in Congress and, correspondingly, the ratification of these amendments by the state legislatures.⁶⁷

Virginia was one of the first states to receive the twelve amendments that constituted the Bill of Rights, Richard Henry Lee and William Grayson having dispatched them to the House of Delegates almost immediately. Some Antifederalists in Virginia welcomed the amendments and Madison was pleased to report to Washington that “one of the principal leaders of the Baptists” had written to him to report that “the amendments had entirely

⁶⁵ Herman V. Ames, ‘Recent Development of the Amending Power as applied to the Federal Constitution’ *Proceedings of the American Philosophical Society*, 72 (1933), 92.

⁶⁶ Philip L. Martin, ‘Madison’s Precedent of Legislative Ratification for Constitutional Amendments’, *Proceedings of the American Philosophical Society*, 109 (1965), 47.

⁶⁷ *Ibid.*, 50.

satisfied the disaffected of his Sect, and that it would appear in their subsequent conduct".⁶⁸ However, Henry and other Antifederalist leaders in the legislature immediately signalled their opposition, in part because the amendments failed to address fully the proposals transmitted from the Ratifying Convention to Congress.⁶⁹ Patrick Henry attempted to delay consideration of the amendments until the next legislative session in the hope that Congress would make further changes before Virginian legislators made their decision.⁷⁰ He realised that the passage of the Bill of Rights would undermine Antifederalist efforts to enact further changes and he was not yet willing to accept defeat. Both the House of Delegates and the Senate were dominated by Antifederalists, many of whom were determined that Congress should consider the amendments proposed by the Virginia Ratifying Convention. A number of senators argued that Congress' amendments did not go far enough in protecting individual rights. The House eventually approved all twelve amendments, but the Senate postponed the approval of what would become the First, Sixth, Ninth, and Tenth Amendments.⁷¹

When Virginia finally ratified the Bill of Rights on December 15, 1791 it was the eleventh state to do so and thereby put the amendments into effect. As with the original Constitution, only three-quarters of the states were required to approve the amendments before they became part of the

⁶⁸ Both George Mason and Thomas Jefferson who had had concerns about the lack of a bill of rights during the ratification contest were content with the proposals from Congress; Schwarz, *The Roots of the Bill of Rights*, Vol. V, 1185.

⁶⁹ Bowling, 'A Tub to the Whale', 249; Rutland, *Birth of the Bill of Rights*, 215.

⁷⁰ He hoped that North Carolina and Rhode Island would request further amendments as a condition of their ratification, but no such demands were forthcoming.

⁷¹ Labunski, *James Madison and the Struggle*, 246-51.

Constitution.⁷² Three states, including Massachusetts, did not ratify the Bill of Rights until much later. In Massachusetts, a conflict of party interests created a legislative stalemate. Federalists believed that the amendments were an unnecessary addition, whereas Antifederalists believed that the proposed amendments did not go far enough and demanded that the legislature endorse a further twelve amendments (those that had been proposed by the Ratifying Convention) before formally ratifying the amendments from Congress.⁷³ The Senate finally approved the third through the twelfth amendments, but the House rejected the twelfth amendment, in addition to the first and second. The legislature adjourned in 1790 without officially declaring its acceptance or rejection of the amendments.⁷⁴ In 1939, Massachusetts formally ratified the Bill of Rights.

⁷² By this time, there were fourteen states in the union. North Carolina ratified the Constitution in November 1789 and Rhode Island followed in May 1790. The admission of Vermont as a state in March 1791 necessitated the ratification of eleven states.

⁷³ Levy, *The Establishment Clause*, 85-86; Bowling, "A Tub to the Whale," 247.

⁷⁴ Schwarz, *The Roots of the Bill of Rights*, Vol. V, 1175; Labunski, *James Madison and the Struggle*, 246, 314; Donald O. Dewey, 'A Vote of Confidence for the Bill of Rights', *American Journal of Legal History*, 7 (1963), 137.

Conclusion

Religion, its free exercise and relationship to the civil magistrate, remained a controversial and contested political issue in both Massachusetts and Virginia throughout the Revolutionary period, particularly in the broader context of protecting individual liberties. Both citizens and official bodies were forced to reassess the role of religion in public life and the support offered to religious societies in light of revolutionary political philosophy that defined certain rights as “natural” and “unalienable”, and the growth of evangelical groups that challenged the dominance of the standing order in each state. In both Massachusetts and Virginia, the Baptists were at the forefront of the campaign to establish full religious liberty. They cleverly blended an understanding of the way in which their plight echoed that of the colonists against Great Britain with an unshakeable conviction that the sovereign authority, indeed the only authority, in all religious affairs was God. As William G. McLoughlin has argued, they were very effective at using the language of liberty and natural rights against revolutionaries who, in their own states, supported settlements that discriminated against dissenters.¹ In Virginia, they became particularly adept, as did their opponents in the established church, at framing their demands in the kind of language that identified their cause with the larger political struggle and the principles of republicanism.

The nature of the religious settlements in both states, as elsewhere in the United States, came under particular scrutiny in the context of

¹ William G. McLoughlin, ‘The Role of Religion in the Revolution: Liberty of Conscience and Cultural Cohesion in the New Nation’ in Stephen G. Kurtz and James H. Hutson (eds.), *Essays on the American Revolution* (Chapel Hill: North Carolina Press, 1973), 200.

establishing new governments. The relationship between church and state, the regulation of ecclesiastical bodies by the civil magistrate, the system of public support for religious provision and the limits of religious liberty were pushed under the spotlight as states began the difficult task of demolishing the old political order and creating new constitutions in line with the principles of the revolution for which they were fighting. These issues, together with increasingly vocal protests from dissenting groups, did not suddenly emerge with the outbreak of hostilities between the American colonies and the mother country, but they were given fresh impetus, new life, with the challenge of creating new political orders. Difficult questions that had previously been sidelined or ignored altogether by colonial legislatures were thrust into the political limelight and Americans were forced to consider how the principles of the Revolution should be practically implemented; what kind of government they wanted and needed; and what role religion would play in all this. Both the established churches and dissenters understood what was at stake in the framing of new constitutions and the creation of new laws. The process of framing new constitutions could not have been more different and it is interesting to note that it was in Virginia, where there was initially no public participation in the establishment of a new frame of government, where the dissenters ultimately prevailed, albeit with the help of powerful political allies. Much to Jefferson's dismay, both the Declaration of Rights and the constitution were drafted and approved by a very small number of political leaders in virtual secrecy. The people of Virginia had no opportunity to voice their approval or objections; indeed, the idea of popular ratification seems not to have entered the minds

of the politicians at all. Madison's success in revising Mason's original provision on religious liberty was critically important in setting Virginia on the path to separating church and state in the Old Dominion. Supported by a steady stream of petitions from Presbyterians, Quakers and Baptists demanding greater religious freedom and constitutional equality between the sects, he was eventually able to secure the passage of Jefferson's Bill that fundamentally altered the relationship between religion and the state in Virginia. The relationship between Madison and the dissenters, the Baptists in particular, was symbiotic: it is highly unlikely that the Bill for Establishing Religious Freedom would have passed if Madison had not been as committed to the cause or if the religious groups had not made their views so well known to the legislature. Initially, despite their growing numbers, the dissenters were in a position of relative weakness. They needed Madison to act on their behalf and without his tireless campaigning, they were powerless. However, by the end of the period, they had grown noticeably in both numerical strength and power. Although still derided by many within the Episcopal Church and others across Virginia who viewed their behaviour and manner with disgust, they had become powerful political players and, as Madison's difficult election campaign to the first Federal Congress demonstrated, a force to be acknowledged. In some parts of Virginia, it became increasingly difficult to achieve electoral success without securing the support of the Baptists and other evangelical groups; a situation reflected in the anxiety and hostility of the political rhetoric of the period from commentators who were witnessing a subtle, but significant, shift in cultural

and ultimately political power from the former establishment to the new evangelical order.

In Massachusetts, dissenters had to be content with a greater sense of toleration for religious minorities and a limited extension of religious liberty. Although they had participated in the debate over the drafting and ratification of the state constitution, they failed to secure the kind of settlement for which they had hoped, the kind of order that they believed was in line with both God's will and republican political principles. Perhaps because the public had been so involved in setting the agenda for the constitutional discussion and approving the draft proposal from the constitutional convention, Baptists in Massachusetts lost the initiative and were unable to capitalise on the concept of a missed opportunity in the same way that their counterparts in Virginia could. Petitioners in the Old Dominion could claim public support for their cause as a means of legitimising and justifying it, but in Massachusetts, the people had already spoken, and there was clearly a lack of public support for a radical overhaul of the religious order. The Baptists in Massachusetts were also severely hampered by a lack of powerful political allies in the legislature. In Virginia, the informal coalition between enlightened political leaders and evangelical groups had been critical to the passage of increasingly radical legislation. Although their own leaders were increasing in stature, prominence, and therefore power, they lacked effective access to government where the necessary decisions were made. On the eve of framing a new constitution for the federal government, Massachusetts protected freedom of conscience and the free exercise of religion, but it continued to operate a system of public

support for religious provision and many citizens remained deeply suspicious of religious outsiders. Although Virginians often shared this antipathy towards dissenters and others who stood outside the religious mainstream, they were not as attached to the principle of religion as the foundation of government and society as their counterparts in New England. Many were very pious Christians and the petitions submitted from the Episcopal Church demonstrate that a significant percentage of Virginians firmly believed that religion was essential to the welfare of the community. However, the Church in Virginia had always been as much a political and a cultural institution as it had a religious body and it seems clear that as a society, they lacked the pious devotion to the promotion of religious worship as a spiritual duty and the missional heritage that shaped political rhetoric and concerns in New England.

The creation of a new Federal Constitution raised fundamental questions about politics and religion in Massachusetts and Virginia once again, particularly because it presented a more consolidated form of government that threatened the independence of the individual states and their religious settlements. In a constitution based on the sovereignty of "We the People", rather than "We the States", what protection did the states have against the federal government? Moreover, without a bill of rights to protect civil liberties, what protection did the people have against the federal government? In Massachusetts, a number of political commentators were concerned about the irreligious nature of the Constitution, its failure to mention God or to provide a religious test for officeholders that would prevent irreligious or heterodox individuals from assuming office and

destroying the foundations of American government. In Virginia, concerns about the protection of religious liberty in a consolidated government where the basic rights of the people did not seem to be protected were of particular concern given the recent legislation to establish full religious liberty.

The implementation of a stronger federal government also raised questions about the religious character of the United States as a nation; something that Americans had not needed to consider while they were only loosely connected in a confederation. Although the framers avoided virtually all references to religion in the Constitution and made no comment about the religious nature of the nation in which they lived, Americans would have agreed that they lived in a Christian nation. Beyond this point, however, there would most certainly have been heated disagreements about the role of religion in public life, the relationship between church and state and the limits of religious liberty. Given the reaction to the "godless" Federal Constitution, it is quite safe to assume that a number of citizens in Massachusetts would have been appalled by the prospect of living in a state such as Virginia where the churches were not supported and religion was not promoted. Similarly, both Episcopalians and evangelicals would have been horrified by the prospect of living in a state dominated by the Congregational Church. The Episcopalians may have wanted to maintain a religious establishment in Virginia, but the customs and practices of religious devotion in a Congregational church were very different from those in an Episcopalian church. While the prospect of transplanting the religious settlement of one state to the others was highly unlikely, if not impossible, as was the prospect of a national church, some Americans feared that one or

more states might begin to influence the local conditions or culture of their own communities.

Massachusetts and Virginia presented two very different models of church-state relations in the 1790s, in large part because of the different perspectives of John Adams and Thomas Jefferson on religion and religious liberty and their role in creating the religious settlements of their respective states. The Constitution of 1780 was almost all John Adams' work and remained the basis of the religious settlement in Massachusetts throughout this period, while the passage of Jefferson's Bill for Establishing Religious Freedom created a political society in Virginia that had no formal links with the churches and other religious groups. Both Adams and Jefferson were convinced of the importance of religious liberty, but their understanding of this principle was very different. Adams' understanding was grounded in his exposure to enlightened political philosophy, his personal religious convictions and a strong sense of New England's religious heritage. He believed that religious liberty was the freedom to worship God and exercise religious opinions freely. Matters of conscience could not and should not be regulated by the civil magistrate. However, he saw no conflict in a civil society that upheld the principle of religious freedom and simultaneously promoted religion and provided for its provision. In the words of John Witte Jr.: "Adams thought that true religious liberty required the state to balance the establishment of one 'Publick religion' with the freedom of many private religions."² By contrast, Jefferson's understanding was grounded almost solely in enlightenment and natural rights philosophy. He did not share

² John Witte Jr., "'A Most Mild and Equitable Establishment of Religion': John Adams and the Massachusetts Experiment", *Journal of Church and State*, 41 (1999), 216.

Adams' religious commitment and, as a Virginian, did not have the sense of providential history that shaped Adams' political and constitutional thinking.

Given Madison's pivotal role in the securing the passage of Jefferson's Bill and the Federal Constitution, swiftly followed by the drafting of the Bill of Rights, it is tempting to view Virginia as the republican model for the United States at this time. While Madison undoubtedly drew on his experiences in Virginia in drafting the first amendment, its ratification did not signal a general acceptance among the American people that church and state should remain entirely separate. With the passage of the Bill of Rights, religion was seen to remain a state issue, outwith the purview of the federal government. The local definitions of republicanism and federalism allowed Americans in Massachusetts and Virginia to view the first amendment as equally compatible with their very different religious settlements.

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